

**H.R. 2651, THE HORSERACING INTEGRITY ACT
OF 2017**

HEARING
BEFORE THE
SUBCOMMITTEE ON DIGITAL COMMERCE AND
CONSUMER PROTECTION
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

JUNE 22, 2018

Serial No. 115-143



Printed for the use of the Committee on Energy and Commerce
energycommerce.house.gov

U.S. GOVERNMENT PUBLISHING OFFICE

35-128

WASHINGTON : 2019

COMMITTEE ON ENERGY AND COMMERCE

GREG WALDEN, Oregon
Chairman

JOE BARTON, Texas <i>Vice Chairman</i>	FRANK PALLONE, JR., New Jersey <i>Ranking Member</i>
FRED UPTON, Michigan	BOBBY L. RUSH, Illinois
JOHN SHIMKUS, Illinois	ANNA G. ESHOO, California
MICHAEL C. BURGESS, Texas	ELIOT L. ENGEL, New York
MARSHA BLACKBURN, Tennessee	GENE GREEN, Texas
STEVE SCALISE, Louisiana	DIANA DEGETTE, Colorado
ROBERT E. LATTA, Ohio	MICHAEL F. DOYLE, Pennsylvania
CATHY McMORRIS RODGERS, Washington	JANICE D. SCHAKOWSKY, Illinois
GREGG HARPER, Mississippi	G.K. BUTTERFIELD, North Carolina
LEONARD LANCE, New Jersey	DORIS O. MATSUI, California
BRETT GUTHRIE, Kentucky	KATHY CASTOR, Florida
PETE OLSON, Texas	JOHN P. SARBANES, Maryland
DAVID B. MCKINLEY, West Virginia	JERRY McNERNEY, California
ADAM KINZINGER, Illinois	PETER WELCH, Vermont
H. MORGAN GRIFFITH, Virginia	BEN RAY LUJAN, New Mexico
GUS M. BILIRAKIS, Florida	PAUL TONKO, New York
BILL JOHNSON, Ohio	YVETTE D. CLARKE, New York
BILLY LONG, Missouri	DAVID LOEBSACK, Iowa
LARRY BUCSHON, Indiana	KURT SCHRADER, Oregon
BILL FLORES, Texas	JOSEPH P. KENNEDY, III, Massachusetts
SUSAN W. BROOKS, Indiana	TONY CARDENAS, California
MARKWAYNE MULLIN, Oklahoma	RAUL RUIZ, California
RICHARD HUDSON, North Carolina	SCOTT H. PETERS, California
CHRIS COLLINS, New York	DEBBIE DINGELL, Michigan
KEVIN CRAMER, North Dakota	
TIM WALBERG, Michigan	
MIMI WALTERS, California	
RYAN A. COSTELLO, Pennsylvania	
EARL L. "BUDDY" CARTER, Georgia	
JEFF DUNCAN, South Carolina	

SUBCOMMITTEE ON DIGITAL COMMERCE AND CONSUMER PROTECTION

ROBERT E. LATTA, Ohio
Chairman

GREGG HARPER, Mississippi <i>Vice Chairman</i>	JANICE D. SCHAKOWSKY, Illinois <i>Ranking Member</i>
FRED UPTON, Michigan	BEN RAY LUJAN, New Mexico
MICHAEL C. BURGESS, Texas	YVETTE D. CLARKE, New York
LEONARD LANCE, New Jersey	TONY CARDENAS, California
BRETT GUTHRIE, Kentucky	DEBBIE DINGELL, Michigan
DAVID B. MCKINLEY, West Virginia	DORIS O. MATSUI, California
ADAM KINZINGER, Illinois	PETER WELCH, Vermont
GUS M. BILIRAKIS, Florida	JOSEPH P. KENNEDY, III, Massachusetts
LARRY BUCSHON, Indiana	GENE GREEN, Texas
MARKWAYNE MULLIN, Oklahoma	FRANK PALLONE, JR., New Jersey (<i>ex officio</i>)
MIMI WALTERS, California	
RYAN A. COSTELLO, Pennsylvania	
JEFF DUNCAN, South Carolina	
GREG WALDEN, Oregon (<i>ex officio</i>)	

CONTENTS

	Page
Hon. Greg Walden, a Representative in Congress from the State of Oregon, opening statement	1
Prepared statement	2
Hon. Hon. Robert E. Latta, a Representative in Congress from the State of Ohio, opening statement	3
Prepared statement	4
Hon. Tony Cárdenas, a Representative in Congress from the State of Cali- fornia, opening statement	4
Hon. Janice D. Schakowsky, a Representative in Congress from the State of Illinois, opening statement	17

WITNESSES

Andy Barr, A Representative in Congress from the Commonwealth of Ken- tucky	5
Prepared statement	8
Paul Tonko, A Representative in Congress from the State of New York	12
Prepared statement	14
Alan M. Foreman, Chairman and CEO, Thoroughbred Horsemen's Associa- tion, Inc.	19
Prepared statement	21
Answers to submitted questions ¹	91
Stuart S. Janney, III, Chairman, The Jockey Club	26
Prepared statement	28
Answers to submitted questions ²	93
Eric Hamelback, CEO, National Horsemen's Benevolent and Protective Asso- ciation	34
Prepared statement	36
Answers to submitted questions	96
Kitty Block, Acting President and CEO, Humane Society of the United States	42
Prepared statement	44
Ed Martin, President, Association of Racing Commissioners International	53
Prepared statement ³	55
Answers to submitted questions	99
Craig Fravel, CEO, The Breeders' Cup	56
Prepared statement	58
Answers to submitted questions ⁴	107

SUBMITTED MATERIAL

Documents submitted by Mr. Kinzinger	85
Statement of ASPCA, submitted by Ms. Schakowsky	90
Documents submitted by Mr. Latta ⁵	

¹ The committee did not receive a response to Mr. Foreman's submitted questions for the record by the time of printing.

² The committee did not receive a response to Mr. Janney's submitted questions for the record by the time of printing.

³ The attachments to Mr. Martin's statement can be found at: <https://docs.house.gov/meetings/IF/IF17/20180622/108463/HHRG-115-IF17-Wstate-MartinE-20180622.pdf>.

⁴ The committee did not receive a response to Mr. Fravel's submitted questions for the record by the time of printing.

⁵ The documents can be found at: <https://docs.house.gov/meetings/IF/IF17/20180622/108463/HHRG-115-IF17-20180622-SD003.pdf>.

H.R. 2651, THE HORSERACING INTEGRITY ACT OF 2017

FRIDAY, JUNE 22, 2018

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DIGITAL COMMERCE AND CONSUMER
PROTECTION,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 9:02 a.m., in room 2123, Rayburn House Office Building, Hon. Robert Latta (chairman of the subcommittee) presiding.

Present: Representatives Latta, Kinzinger, Burgess, Lance, Guthrie, Bilirakis, Bucshon, Mullin, Walters, Costello, Duncan, Walden (ex officio), Schakowsky, Cárdenas, Welch, Kennedy, Green, and Pallone (ex officio).

Staff Present: Mike Bloomquist, Staff Director; Karen Christian, General Counsel; Melissa Froelich, Chief Counsel, Digital Commerce and Consumer Protection; Ali Fulling, Legislative Clerk, Oversight and Investigations/Digital Commerce and Consumer Protection; Elena Hernandez, Press Secretary; Paul Jackson, Professional Staff Member, Digital Commerce and Consumer Protection; Bijan Koohmaraie, Counsel, Digital Commerce and Consumer Protection; Greg Zerzan, Counsel, Digital Commerce and Consumer Protection; Michelle Ash, Minority Chief Counsel, Digital Commerce and Consumer Protection; Lisa Goldman, Minority Counsel; Caroline Paris-Behr, Minority Policy Analyst; and Carolyn Hann, Minority FTC Detailee.

Mr. LATTI. Well, good morning. I would like to call the subcommittee on Digital Commerce and Consumer Protection to order this morning. I welcome you all here this morning.

And, at this time, the chair is going to recognize the gentleman from Oregon, the chairman of the full committee, for 5 minutes.

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Thank you, Mr. Chairman.

I want to welcome our witnesses on this panel. And I will just stipulate at the beginning, I have to go manage the floor debate on H.R. 6, our big wrap-up bill on opioids. So my apologies at the head end, but that starts now as well.

So I will keep my remarks fairly short. I will dispense with the discussion about the great thundering herds of Mustangs across the high desert of eastern Oregon. My district is enormous, and horses and horseracing and rodeo and ranching are all part of it.

But we really appreciate all of you being here today as we have this legislative hearing on H.R. 2651, the Horseracing Integrity Act of 2017.

From the American West, the Kentucky Blue Grass, the renowned tracks in New York, and beyond, horses hold a very, very special place in our hearts and our history. Still today across the country, and especially in my district, horses are part of the fabric, they are part of our culture, they are part of our economy.

My district is home to the world famous Pendleton Round-Up, one of the great rodeos of the West, and local races at places like Prineville and Frenchglen and everywhere else. As you all know and appreciate, horseracing in particular has a storied history in this country and remains an important economic driver.

Our discussion of Mr. Barr and Mr. Tonko's bill is also very timely. Earlier this month, the world witnessed history as Justify became the 13th horse to complete the Triple Crown.

Today, we will hear from you, the experts, about the horseracing industry, how it is currently regulated, and what can be done to protect these wonderful, wonderful animals. We want to know your thoughts on the legislation at hand—we know you have different thoughts on it, depending upon your position on this issue—its impact on the industry, and how best to promote the vitality and integrity of this celebrated sport.

You all have insights that will help inform us as to how we can address some of the concerns that currently exist in the industry. So I thank you all for being here today for this important, important discussion, and I am looking forward to your perspectives on this bill and this sport.

And, with that, Mr. Chairman, I yield back the balance of my time, and, as we like to say in eastern Oregon, "Let 'er buck."

[The prepared statement of Mr. Walden follows:]

PREPARED STATEMENT OF HON. GREG WALDEN

Good morning and thank you to our witnesses for appearing before us today to participate in our legislative hearing on H.R. 2651, the Horseracing Integrity Act of 2017.

From the American West, to the Kentucky bluegrass, to the renowned tracks in New York and beyond, horses hold a special place in our history.

Still today, across the country, and especially in Oregon's Second District, horses are part of the fabric of our culture and economy. My district is home to the world famous Pendleton Round-Up and local races at Prineville's Crooked River Ranch Round-Up.

As you all know and appreciate, horseracing, in particular, has a storied history in this country and remains an important economic driver.

Our discussion of Mr. Barr and Mr. Tonko's bill is also very timely. Earlier this month, the world witnessed history as Justify became the 13th horse to complete the Triple Crown.

Today, we will hear from you, the experts, about the horseracing industry, how it is currently regulated, and what can be done to protect these wonderful animals. We want to know your thoughts on the legislation at hand, its impact on the industry, and how best to promote the vitality and integrity of this celebrated sport.

You all have insights that will help inform us as to how we can address some of the concerns that currently exist in the industry. I thank you all for being here today for this important discussion and I am looking forward to your perspectives on this bill and this sport.

I yield back the balance of my time, and as we like to say in eastern Oregon, let 'er buck!

**OPENING STATEMENT OF HON. ROBERT E. LATTA, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO**

Mr. LATTA. OK. The gentleman yields back. Thank you very much.

And, at this time, because they are delayed right now, the ranking member of the subcommittee and the ranking member of the full committee haven't arrived, we will informally pass on their opening statements, but I will go right into my opening statement at this time.

Again, I want to thank you all very much for appearing today before us to discuss Representative Barr's and Representative Tonko's legislation, H.R. 2651, the Horseracing Integrity Act of 2017.

This legislation will establish an independent, nonprofit authority, the Horseracing Anti-Doping and Medication Control Authority. This authority would be tasked with developing and administering an anti-doping and medication control program for horseraces and affiliated persons.

The bill also aims to ban the use of medication 24 hours before a race, which advocates and opponents tell the committee would result in a ban on the use of LASIX, a widely used medication that is administered 4 hours prior to post time to treat exercise-induced pulmonary hemorrhaging.

Horseracing has a long and distinguished history in the United States. Just a couple weeks ago, on June 9, millions of Americans watched as Justify, a Thoroughbred racehorse jockeyed by 52-year-old veteran Mike Smith, became the 13th winner of the Triple Crown. This was a historic accomplishment celebrated across the globe.

It is also notable that horseracing is an international sport. Although the races of the Triple Crown are the world's most prestigious, other annual events in the United Kingdom, France, Australia, the United Arab Emirates, and around the globe demonstrate the worldwide appeal of this ancient sport.

Here in the United States, at least 32 States have horseracing tracks, stretching from California to Maine, including my home State of Ohio. These tracks provides the base of an industry that has a far-reaching and significant impact on the U.S. economy.

Last year, approximately 51,000 horses competed in about 41,000 races, competing for a total purse of more than \$1 billion. According to a recent study, the equine industry generates more than \$120 billion in total economic impact and provides a total employment impact of almost 1.8 million jobs. In my home State of Ohio, horseracing generates \$715 million in annual revenue and supports more than 16,000 jobs.

Horseracing is an important part of the American fabric, both as a sport and as a source of entertainment. Ensuring the integrity of the sport is important to owners, competitors, and fans alike. I look forward to hearing the views of our witnesses today on this legislation.

And, with that, I will yield back the balance of my time. And, at this time, I will recognize the gentleman from California for a 5-minute opening statement.

[The prepared statement of Mr. Latta follows:]

PREPARED STATEMENT OF HON. ROBERT E. LATTA

Good morning and thank you to our distinguished panel for appearing before us today to discuss Representative Barr and Tonko's legislation, H.R. 2651, the Horseracing Integrity Act of 2017.

This legislation establishes an independent non-profit authority, the Horseracing Anti-Doping and Medication Control Authority. This Authority would be tasked with developing and administering an anti-doping and medication control program for race horses and affiliated persons. The bill also aims to ban the use of medication 24 hours before a race, which advocates and opponents tell the committee would result in a ban on the use of Lasix, a widely used medication that is administered 4 hours prior to post time to treat exercise-induced pulmonary hemorrhaging.

Horseracing has a long and distinguished history in the United States. Just a couple of weeks ago, on June 9th, millions of Americans watched as Justify, a thoroughbred racehorse, jockeyed by 52-year-old veteran Mike Smith, became the 13th winner of the Triple Crown. This was a historic accomplishment, celebrated across the globe.

It is also notable that horse racing is an international sport. Although the races of the Triple Crown are the world's most prestigious, other annual events in the United Kingdom, France, Australia, the United Arab Emirates and around the globe demonstrate the world-wide appeal of this ancient sport.

Here in the United States at least 32 states have horse racing tracks, stretching from California to Maine, including my home State of Ohio. These tracks provide the basis of an industry that has a far-reaching and significant impact on the U.S. economy.

Last year, approximately 51,000 horses competed in about 41,000 races competing for a total purse of more than \$1 billion. According to a recent study, the equine industry generates more than \$120 billion in total economic impact and provides a total employment impact of almost 1.8 million jobs. In my home State of Ohio, horse racing generates \$750 million in annual revenue and supports more than 16,000 jobs.

Horseracing is an important part of the American fabric, both as a sport and as a source of entertainment. Ensuring the integrity of the sport is important to owners, competitors and fans alike. I look forward to hearing the views of our witnesses today on the legislation.

Thank you and I yield back the balance of my time.

OPENING STATEMENT OF HON. TONY CÁRDENAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CÁRDENAS. Thank you very much, Chairman Latta, for having this hearing. And I would like to thank my colleagues for introducing this legislation.

Good morning, everybody. I am glad to cosponsor this bipartisan legislation, and I applaud Representatives Barr and Tonko for its introduction. As a longtime advocate of ensuring welfare protections for animals, I am glad that we are having a hearing on the implications of drug use in the horseracing industry.

While it is true that most states currently have regulations on drug use in horseracing, there is very little uniformity. This legislation is important because it would establish an independent authority to oversee the industry, which would include members of the United States Anti-Doping Agency, USADA, an organization that has been very effective at overseeing drug use in other sports.

The main purpose of the regulatory authority is to implement a uniform anti-doping program and to create a national standard that ensures all states are following the same rules.

Like humans, overmedication of horses can be extremely dangerous. According to data released by the American Jockey Club, about 493 Thoroughbred horses died in 2017. While there may be

several reasons for these equine deaths, it is hard to point to other factors when over 90 percent of Thoroughbreds in the United States receive some form of race-day medication.

It is critical that we have an organization to provide oversight to this industry. We need to make sure that there is fairness in horseracing, but the main focus should always be on the welfare of the horses and the safety of the jockeys.

I look forward to hearing from our colleagues, who are about to ensure that safety in this sport that many of us have enjoyed is now in a better place.

I yield back.

Mr. LATTA. Well, thank you very much.

The gentleman yields back the balance of his time.

And, at this time, as I mentioned, we will informally pass on the ranking member's statement. When he gets here, he can give his statement, but that will conclude the opening statements from our members.

The chair reminds members that, pursuant to committee rules, all members' opening statements will be made part of the record.

At this time, I ask unanimous consent that Energy and Commerce members not on the Subcommittee on Digital Commerce and Consumer Protection be permitted to participate in today's hearing.

Without objection, so ordered.

And, pursuant to House rules, members that are not on the committee are able to attend the meeting but will not be able to ask questions.

At this time, we want to thank our witnesses for being with us today. Greatly appreciate you coming before the subcommittee to testify.

Our first panel will be recognized for opening statements, and then, without recessing, we will seat our second panel of witnesses, who will be recognized for their opening statements. And then members will have an opportunity to ask questions.

Our first panel of witnesses are the original cosponsors of H.R. 2651, Representative Andy Barr from the great State of Kentucky and Representative Paul Tonko from the great State of New York.

I thank you both for being here.

And, Mr. Barr, you are recognized for 5 minutes for your opening statement. Thank you.

STATEMENTS OF HON. ANDY BARR, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF KENTUCKY; HON. PAUL TONKO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

STATEMENT OF HON. ANDY BARR

Mr. BARR. Thank you, Chairman Latta. Thank you to Chairman Walden, as well, and to Mr. Cárdenas and the ranking member for holding this hearing on our legislation, H.R. 2651, the Horseracing Integrity Act.

When I was first elected to Congress, I dedicated my service to promoting the signature industries of Kentucky, and nothing is more synonymous with our commonwealth than thoroughbred breeding and horseracing.

My district, in particular, holds the title “Horse Capital of the World.” Now, 11 of the 13 Triple Crown winners were foaled in the Sixth District, including the most recent champion, Justify. Lexington, Kentucky is surrounded by more than 400 world-class horse farms, including Ashford Stud, the home of the last Triple Crown winner, American Pharoah. And Keeneland racecourse hosts many notable races, including the Toyota Blue Grass Stakes and the 2015 Breeders’ Cup.

However, this sport is not only prominent in our district, but horseracing is truly a national sport. Therefore, advocating for this industry requires more than just celebrating a proud heritage. With the privilege of representing the Horse Capital of the World comes the responsibility of fighting for its future. And, as the chairman pointed out, this is not just a sport; this is an industry with enormous economic benefit and enormous impact in terms of job creation.

That is why I, with my fellow co-chair of the Congressional Horse Caucus, Representative Paul Tonko, introduced the Horseracing Integrity Act to enact reforms that would ensure the industry continues to grow and prosper.

Currently regulated by 38 separate jurisdictions, our signature racing industry labors under a patchwork of conflicting and inconsistent state-based rules governing prohibited substances, lab accreditation, testing, and penalties for violations. This lack of uniformity has impeded interstate commerce, compromised the international competitiveness of the industry, and undermined public confidence in the integrity of our sport.

H.R. 2651 would remedy these problems by authorizing the creation of a nongovernmental anti-doping authority, the Horseracing Anti-Doping and Medication Control Authority, governed by representatives of all major constituencies of the industry and responsible for implementing a national, uniform medication program for the horseracing industry.

Today, you will hear from many supporters of this bill, and you will hear from critics of this legislation on the panels to follow. The critics will say that this legislation will create a new duplicative regulatory bureaucracy at the Federal level and will duplicate what states are already doing. They will say it increases regulation. They will say it bans LASIX, which is currently legal to administer on race day in the United States. And they will say they have concerns with the ability of the United States Anti-Doping Agency to regulate this program.

It is true that the industry has made notable strides in recent years to adopt uniform standards. The work of the Racing Medication and Testing Consortium and the NTRA’s Safety & Integrity Alliance has been positive and should be commended.

But, to date, only 11 of the 38 racing jurisdictions with laws permitting parimutuel horseracing have adopted all 4 elements of the National Uniform Medication Program. The remaining state racing jurisdictions operate under only rules applicable to that state and have great variances. Of the leading racing states, like New York, California, Florida, or Kentucky, none have fully implemented NUMP.

As a conservative who believes in federalism and states' rights, I also understand that the Constitution gives Congress the power to regulate interstate commerce precisely for the purpose of eliminating these kinds of impediments to interstate exchange.

A national, uniform medication program is not about creating more bureaucracy or more regulation. In fact, this legislation reduces regulations by replacing 38 state-by-state regulatory regimes with a single national, uniform set of standards.

To address concerns with the dispersion of specific drugs, H.R. 2651 does not ban the administration of LASIX for truly therapeutic purposes. Rather, it prohibits trainers from administering these drugs on race day. So it preserves out-of-competition therapeutic administration.

This would bring U.S. regulation in line with other horseracing counterparts in places like Europe, Dubai, and Hong Kong, ultimately eliminating the perception of unfair competition and enhancing the reputation of U.S. racing on an international level, which is important for the international sales and exports of our breeding stock as well.

Finally, USADA's involvement through the HADA would bring the sport independence, expertise, and credibility. The HADA will be made up of USADA and industry officials, thus benefiting from the experience of officials and individuals tasked with addressing the challenges presented in horseracing today.

And H.R. 2651 would address many of the issues confronting the industry, increase the popularity and public confidence and international competitiveness of the sport.

In the wake of Justify's historic Triple Crown, it is important we use this momentum to continue to fight for the future of this special industry.

And I yield back.

[The prepared statement of Mr. Barr follows:]

Congressman Andy Barr (KY-06)

Testimony on H.R. 2651 the Horseracing Integrity Act of 2017

**House Energy and Commerce Subcommittee on Digital Commerce and Consumer
Protection**

June 22, 2018

Thank you Chairman Latta and Ranking Member Schakowsky for holding this hearing on my bill, H.R. 2651, the Horse Racing Integrity Act, which would create a private, independent horseracing anti-doping authority with responsibility for developing and administering a nation-wide anti-doping program for horseracing.

When I was elected to Congress, I dedicated my services to promoting the growth and development of Kentucky's signature industries, and nothing is more synonymous with the Commonwealth than thoroughbred breeding and horseracing. My district – the 6th district of Kentucky—in particular holds the title, Horse Capital of the World. Now, eleven of the thirteen Triple Crown Winners were foaled in the 6th District, including the most recent champion, Justify. Lexington is surrounded by more than 400 beautiful horse farms. And Keenland hosts many notable races including the Toyota Bluegrass Stakes and in 2015 the Breeder's Cup.

However, this industry, is not only prominent in my district but, horseracing is truly a national sport. Therefore, advocating for this industry requires more than celebrating a proud heritage. According to the most recent Economic Impact Study produced by the American Horse Council, the horse industry directly contributes over \$50 billion to the GDP and creates over 988,394 jobs nationally. However, when taking into consideration the indirect impacts, these numbers grow significantly. So, with the privilege of representing the Horse Capital of the World comes the responsibility of fighting for its future.

That is why I, with my colleague and Co- chair of the Congressional Horse Caucus, Rep. Paul Tonko, introduced the Horse Racing Integrity Act to enact reforms that would ensure the industry continues to grow and prosper.

Currently regulated by 38 separate jurisdictions, our signature racing industry labors under a patchwork of conflicting and inconsistent, state-based rules governing prohibited substances, lab accreditation, testing, and penalties for violations. This lack of uniformity has impeded interstate commerce, compromised the international competitiveness of the industry, and undermined public confidence in the integrity of the sport.

This legislation would remedy these problems by authorizing the creation of a non-governmental anti-doping authority, The Horseracing Anti-doping and Medication Control Authority Act (HADA), governed by representatives of all major constituencies of the industry and responsible for implementing a national, uniform medication program for the entire horseracing industry. These reforms would eliminate the perception of unfair competition and enhance the reputation of U.S. racing on both national and international levels.

Today, you will hear from critics of this legislation on the panels to follow. They will say that this legislation will create a new duplicative regulatory bureaucracy at the federal level that will emulate what states are already doing. They will say it increases regulation. They will say it bans Lasix, a diuretic that is currently legal to administer on race day in the U.S. They will say they have concerns with the ability of the United States Anti- Doping Agency (USADA) to regulate this program.

The industry has made notable strides in recent years to adopt uniform standards. The work of the Racing Medication and Testing Consortium and the NTRA's Safety and Integrity Alliance has been positive and should be commended, but the fact remains that to date, 11 of the 38 racing jurisdictions with laws permitting pari-mutuel horse racing have adopted all four elements of the National Uniform Medication Program (NUMP), the remaining state racing jurisdictions operate under rules only applicable

to that state and have great variances. Of the leading racing states like New York, California, Florida, or Kentucky, none have fully implemented NUMP.

I am a conservative who believes in federalism and states' rights, but I also understand that *Article I, Section 8 of the U.S. Constitution* conferred to Congress the power to regulate interstate commerce precisely for the purpose of eliminating these kinds of impediments to interstate exchange. I'm also a realist who recognizes that all of racing's challenges are not solely attributable to the perceptions of doping or cheating. But I also recognize the importance of international competitiveness and the long-term success of this industry in the U.S.

A national uniform medication program is not about creating more bureaucracy or regulation. This legislation actually reduces regulations because it replaces 38 different state by state conflicting regulatory regimes with a single national, uniform set of standards.

To address concerns with the dispersion of specific drugs, H.R. 2651 does not ban the administering of Lasix, rather it prohibits trainers from administering these drugs on race day. This would bring U.S. regulation in line with other horseracing counterparts in places like Europe, Dubai, and Hong Kong ultimately making it more competitive on the international level.

Finally, the USADA's involvement through the HADA would bring the sport independence, expertise, and credibility. The HADA will be made up of USADA and industry representatives to set uniform standards and regulations, that benefit from the experience and enforcement of officials and individuals currently tasked with addressing the challenges presented in horseracing today. USADA would be tasked with providing expertise on the process of creating and implementing successful, independent, and uniform state-of-the-art anti-doping program that the industry has demonstrated it cannot do on its own.

H.R. 2651 would address many of the issues confronting the horseracing industry and increase the popularity, public confidence, and international competitiveness of the sport. In the wake of Justify's

historic Triple Crown win, it is important that we use this momentum to continue to fight for the future of this special industry.

Mr. LATTA. Thank you very much.

The gentleman from Kentucky yields back, and the chair now recognizes the gentleman from New York for 5 minutes.

STATEMENT OF HON. PAUL TONKO

Mr. TONKO. Thank you, Chair.

And I do want to offer my thanks here publicly to Chairman Walden and Ranking Member Pallone for the opportunity for the hearing. And, likewise, thank you, Chair Latta and Ranking Member Schakowsky and Ranking Member Cárdenas, today for the opportunity to testify before you on the importance of promoting uniformity and integrity in the horseracing industry.

You might think a New York Democrat and a Kentucky Republican can't agree on much, but we have developed a strong working relationship on this issue because we both love the sport of horseracing and want to see it thrive.

I am pleased that we are holding this hearing today to learn about what we can do to improve this sport of kings and ensure the sport continues to thrive well into the future. We have a distinguished panel of witnesses from across the spectrum to share their thoughts with us on this important issue, and I look forward to hearing from them.

As home to the Nation's oldest track, the Saratoga Race Course, my home area has been long steeped in the storied tradition of horseracing, dating back to 1863. The equine industry is an important economic driver for the State of New York, with an estimated economic impact of some \$5.3 billion annually.

In 2015, I had the chance to see in person the sport at its very best when I bore witness to the historic run by American Pharoah at the Belmont track to capture the Triple Crown.

When we place a majestic equine athlete like American Pharoah or our newest Triple Crown champion, Justify, front and center, this endeavor can capture truly the imagination of our nation, and the sport of the horseracing can continue to grow in our hearts.

However, we have all seen the devastating results that can occur when these equine athletes are pushed beyond their limits, often aided by medications that can mask underlying health issues. This dangerous race-at-all-costs mentality denigrates the sport and should be unacceptable to anyone in the horseracing community.

This same story has played out countless times across the country because the current voluntary national uniform medication reforms have been implemented unevenly, leaving patchwork systems in place that have created a wide disparity in the effectiveness of medication testing and enforcement.

This piecemeal, voluntary approach is not only detrimental to the health of our beloved horses, it denigrates the perception of the sport and certainly puts other athletes, like our jockeys, at risk.

Now, my colleague Andy Barr indicated some of the statistics on those voluntary medication efforts, so I won't repeat them. But if horseracing is to thrive as an industry and once again capture the public's imagination, we must and we can do better.

On this point, the public strongly agrees. More than 90 percent of the public and 90 percent of horse players want to see stronger action on uniform medication reform. In a sport built on the integ-

rity of competition, nothing is more important than a level playing field for the horses, the jockeys, and the trainers who compete, as well as the fans who wager on the races.

While the voluntary approach is well-meaning, the lack of effective followthrough has negatively impacted the perception of fair competition across the sport and has done little to build confidence in the minds of our sports fans and our sports critics, many of whom are concerned about drug use and testing.

By creating a strong, transparent, and independent—let me repeat that—independent anti-doping authority, we can guarantee fair play, improve the health of our horses, and bring new energy and spectators to this majestic sport.

That is why I have joined with my friend Representative Barr in introducing the Horseracing Integrity Act. The legislation we have introduced would create a national, independent horseracing anti-doping authority responsible for rulemaking, testing, and enforcement oversight regarding drugs and medication.

This new organization would be chaired by representatives at the independent United States Anti-Doping Agency, or USADA, a non-profit, nongovernmental institution. The board of the new organization would also include voices representing a spectrum of perspectives within the horseracing industry, including our owners, our breeders, our horsemen, our racetracks, and certainly our veterinarians.

The new organization would be responsible for determining permitted and prohibited substances, a schedule of sanctions for violations, testing procedures, standards, protocols, laboratory accreditation procedures, and due-process procedures for violations.

Many have questioned why horseracing should be partnering with USADA, an organization with no history in the sport. While the physiological makeup of horses and humans are different, the need and method for effective testing protocols, uniform standards and penalties, as well as proper lab accreditation is the same. This is where USADA's real strength as an organization lies.

The horseracing anti-doping authority approach would implement horseracing industry best practices for uniform testing, uniform penalties, well-designed out-of-competition testing, and fully accredited labs to deter cheaters and appropriately penalize violators.

One of the major strengths of this legislation is that, from the outset, we engaged a broad coalition of stakeholders, both inside and outside the industry, interested in medication reform. That is why we were able to gain support from a diverse range of organizations, including animal welfare groups like the Human Society of the United States; horse groups like The Jockey Club, the Breeders' Cup, the New York Racing Association, and the grassroots Water, Hay, Oats Alliance; in addition to some of the largest track owners in our country. Since the legislation was introduced, we have broadened this coalition even further and look to work with any stakeholder interested in uniformity and clean sporting.

Again, I look forward to hearing from our diverse panel today about what they are seeing on the ground and how best we can move forward together to strengthen this sport of kings.

With that, Mr. Chair, I yield back the balance of my time.

[The prepared statement of Mr. Tonko follows:]

**Testimony of Representative Paul D. Tonko
Before the House Energy and Commerce Subcommittee on Digital Commerce and
Consumer Protection
“H.R. 2651, the Horseracing Integrity Act of 2017”**

June 22, 2018

Thank you Chairman Latta and Ranking Member Schakowsky for the opportunity to testify before you today on the importance of promoting uniformity and integrity in the horseracing industry.

You might think a New York Democrat and a Kentucky Republican can't agree on much, but we have developed a strong working relationship on this issue because we both love the sport of horseracing and want to see it thrive.

I'm pleased that we are holding this hearing today to learn about what we can do to improve this "Sport of Kings" and ensure the sport continues to thrive well into the future.

We have a distinguished panel of witnesses from across the spectrum to share their thoughts with us on this important issue, and I look forward to hearing from them.

As home to the nation's oldest track, the Saratoga Race Course in my home area has been long steeped in the storied tradition of horseracing, dating back to 1863. The equine industry is an important economic driver for the state of New York, with an estimated economic impact of over \$5.3 billion dollars annually.

In 2015, I had the chance to see in person the sport at its very best when I bore witness to the historic run by American Pharoah at the Belmont to capture the Triple Crown. When we place a majestic equine athlete like American Pharoah or our newest Triple Crown champion, Justify, front and center, this endeavor can capture truly the imagination of the nation and the sport of horseracing can thrive.

However, we've all also seen the devastating results that can occur when these equine athletes are pushed beyond their limits, often aided by medications that can mask underlying health issues. This dangerous 'race at all costs' mentality denigrates the sport and should be unacceptable to anyone in the horseracing community.

This same story has played out countless times across the country because the current voluntary national uniform medication reforms have been implemented unevenly – leaving patchwork systems in place that have created a wide disparity in the effectiveness of medication testing and enforcement. This piecemeal voluntary approach is not only detrimental to the health of our beloved horses, it denigrates the perception of the sport.

If horse racing is to thrive as an industry and once again capture the public's imagination, we must do better. On this point, the public strongly agrees. More than 90 percent of the public and

90 percent of horseplayers want to see stronger action on uniform medication reform. In a sport built on the integrity of competition, nothing is more important than a level playing field for the horses, jockeys and trainers who compete, as well as the fans who wager on the races.

While the voluntary approach is well meaning, the lack of effective follow-through has negatively impacted the perception of fair competition across the sport, and has done little to build confidence in the minds of our sport's fans and critics, many of whom are concerned about drug use and testing.

By creating a strong, transparent, and independent anti-doping authority, we can guarantee fair play, improve the health of our horses, and bring new energy and spectators to this majestic sport. That's why I joined with my friend Representative Barr in introducing the Horseracing Integrity Act.

The legislation we have introduced would create a national, independent Horseracing Anti-Doping Authority responsible for rule-making, testing and enforcement oversight regarding drugs and medication.

This new organization would be chaired by representatives at the independent U.S. Anti-Doping Agency (USADA), a non-profit, non-governmental institution. The board of the new organization would also include voices representing a spectrum of perspectives within the horseracing industry, including owners, breeders, horsemen, racetracks, and veterinarians.

The new organization would be responsible for determining permitted and prohibited substances, a schedule of sanctions for violations, testing procedures, standards, protocols, laboratory accreditation procedures and due process procedures for violations.

Many have questioned why horse racing should be partnering with USADA – an organization with no history in the sport. While the physiological makeup of horses and humans are different, the need and method for effective testing protocols, uniform standards and penalties, as well as proper lab accreditation, is the same. This is where USADA's real strength as an organization lies.

The Horseracing Anti-Doping Authority approach would implement horseracing industry best-practices for uniform testing, uniform penalties, well-designed out-of-competition testing, and fully accredited labs to deter cheaters and appropriately penalize violators.

One of the major strengths of this legislation is that from the outset we engaged a broad coalition of stakeholders, both inside and outside the industry interested in medication reform. That's why we were able to gain support from a diverse range of organizations, including animal welfare groups like the Humane Society of the United States, horse groups like the Jockey Club, the Breeders Cup, the New York Racing Association, and the grassroots Water Hay Oats Alliance in addition to some of the largest track owners in the country.

Since the legislation was introduced, we have broadened this coalition even further, and look to work with any stakeholder interested in uniformity and clean sporting. Again, I look forward to

hearing from our diverse panel today about what they are seeing on the ground, and how best we can move forward together to strengthen this sport of kings.

I yield back the balance of my time.

Mr. LATTA. Thank you very much.

The gentleman yields back.

And I want to thank you both for your testimony before us today.

And that will conclude our first panel of witnesses, and we will move on now to our second panel.

So thank you very much, gentlemen, for your testimony.

Mr. TONKO. Thank you.

[Pause.]

Mr. LATTA. Well, thank you very much for appearing before the subcommittee.

And as I mentioned a little bit earlier, we informally passed on the gentlelady from Illinois' opening statement, so at this time she is recognized for 5 minutes.

OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Ms. SCHAKOWSKY. Thank you. I thank the chairman for that courtesy and the indulgence of the panel.

And thank you all for being here.

The Horseracing Integrity Act introduced by Representatives Barr and Tonko is a critical piece of legislation. It is past time that we address the glaring issues within the horse industry.

This is very personal for me. As a former owner of a horse, named B.J. Sullivan, I know how important these majestic animals are. I have fond memories of tending to and riding horses with my grandfather as a young girl.

I have also been a longtime supporter of animal welfare protections. You should just know, of all the issues that are going on, animal rights of some sort, always in the top five of the communications that I get from my constituents, which I find really interesting, ranging from pollinators to dogs and cats and all other kinds of endangered species.

I am happy that Representative Barr and Tonko have introduced this updated legislation, and I am proud to be a cosponsor. I was the lead cosponsor of similar legislation in 2013 with Representative Pitts that addressed some of the same concerns with doping and horseracing. The new Barr-Tonko bill incorporates many of those things.

Specifically, the legislation was expanded to include Standardbred and Quarter Horses. All racehorses should be afforded the same protection under this legislation.

Most notably, it places a ban on race-day medication, which I feel is the most important change to the legislation. Drugs such as LASIX are often misused in order to increase a horse's performance during the race. Proponents of using LASIX will claim that it is similar to giving a horse a vaccination and is used to prevent bleeding. However, the reality is that the drug is masking an underlying health issue with the horse as well as the possible presence of illegal substances.

The use of these drugs jeopardizes the long-term health and safety of the horse. More than 90 percent of the horses in the United States compete on LASIX. In most international racing, the drug

is banned on race day. The United States should learn from those other countries. We are literally running horses into the ground.

Recent data by the American Jockey Club found that 493 Thoroughbred horses died in 2017. If human athletes were dying at this rate while racing, it would be clear that there was a problem that needed to be fixed. These glaring numbers harm the integrity of the industry.

Horses in these sports deserve real protections. For too long, we have allowed the industry to self-regulate without any real progress in ensuring protection and stopping the bad actors. The Horseracing Integrity Act would address many of these issues plaguing the industry. It would allow an independent regulatory body to oversee the industry, create a national standard that ensures states are following the same rules, and implement a uniform anti-doping program that prohibits race-day drugs.

The future of horseracing depends on this universal regulatory body. We must ensure that we are protecting horses and stopping the bad actors who are endangering the lives of these horses, jockeys, and the fate of the industry itself that so many people love. If we have banned doping in other sports, why not ban it in the horseracing industry?

I look forward to hearing the testimony on how we can continue to protect equines and the integrity of the horseracing industry.

And I yield back. Thank you.

Mr. LATTA. Thank you.

The gentlelady yields back the balance of her time.

And, again, I want to thank our witnesses for coming before us today to testify.

Our second panel of witnesses will be able to present with a 5-minute opening statement followed by a round of questions from our members.

Our second witness panel for today's hearing will include Mr. Alan Foreman, the Chairman and CEO of the Thoroughbred Horsemen's Association, Inc.; Mr. Stuart S. Janney, Chairman of The Jockey Club; Mr. Eric Hamelback, the CEO of the National Horsemen's Benevolent and Protective Association; Ms. Kitty Block, Acting President and CEO of the Humane Society of the United States; Mr. Ed Martin, the President of the Association of Racing Commissioners International; and Mr. Craig Fravel, the CEO of the Breeders' Cup.

Again, we want to thank you all for being here today.

And, Mr. Foreman, you are recognized for 5 minutes for your opening statement. Thank you very much.

STATEMENTS OF ALAN M. FOREMAN, CHAIRMAN AND CEO, THOROUGHBRED HORSEMEN'S ASSOCIATION, INC.; STUART S. JANNEY III, CHAIRMAN, THE JOCKEY CLUB; ERIC HAMELBACK, CEO, NATIONAL HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION; KITTY BLOCK, ACTING PRESIDENT AND CEO, HUMANE SOCIETY OF THE UNITED STATES; ED MARTIN, PRESIDENT, ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL; AND CRAIG FRAVEL, CEO, THE BREEDERS' CUP

STATEMENT OF ALAN M. FOREMAN

Mr. FOREMAN. Thank you, Chairman Latta, Ranking Member Schakowsky. Good morning, members of the subcommittee.

I am proud and honored to be invited to participate this morning to defend the honor and integrity of the racing industry and to oppose what is tantamount to a Federal takeover of a state-sanctioned, state-regulated industry where no basis to do so exists.

H.R. 2651 is not in the best interests of the racing industry and is an ill-conceived effort by certain special interests to impose their minority and special-interest views on the regulation of our industry. We have deep reservations about the provisions contained in this legislation because of its potential adverse impact on the health, welfare, and safety of our horses and the economics of the industry.

Although the proponents would have you believe that this bill is a simple effort at uniformity that enjoys broad-based industry support, nothing could be further from the truth. While certainly this legislation has been divisive, there is broad-based consensus, a remarkably broad consensus, comprising more than 55 industry organizations and stakeholder groups, covering all 3 racing breeds, the regulators, and the veterinary community, and that consensus is united in its opposition to H.R. 2651.

H.R. 2651 purports to create a system for the uniform regulation and use of medication in the racing industry, but such a uniform system already exists, and it works well. Performance-enhancing drugs are not allowed in a horse on race day in horseracing, unlike in human professional and amateur sports competitions. There is total uniformity on this issue in every racing jurisdiction. And racing has uniform rules, policies, guidelines, and laboratory testing in all racing states that are superior to any sport or business in the world. And our system is totally transparent.

We strongly support the existing mechanism by which medication policies are formulated. These scientifically based policies form the basis of the regulatory scheme currently in place, made after thoughtful deliberation and dialogue that includes input from an important array of organizations, including, most importantly, the Racing Medication and Testing Consortium, which serves as the industry's scientific and policy arm.

As a demonstration of the ongoing efforts to improve our current system, the racing industry is currently in the process of adopting major changes nationally in five areas identified as in need of improvement, including enhanced out-of-competition testing.

H.R. 2651 seeks to replace our current state regulatory system with a new Federal bureaucracy on top of a state system that has

existed for over a century, with governance stripped from the states and given to a private group of handpicked, uninformed, and unqualified individuals who know little to nothing about the racing industry or the health and welfare of the horse, including USADA, which does not now nor has it ever had any involvement in the equine sport.

It contains an unfunded mandate that gives unfettered taxing authority to this private, federally appointed group without any accountability to the states with the taxes to pay for their bureaucracy that will be ultimately assessed to horse owners. It will deprive horsemen of their current due-process protections under state law and throw them into the Federal judicial system.

We believe that H.R. 2651, like its predecessor version that the Congressional Research Service previously deemed most likely as being unconstitutional, is unconstitutional for the same reasons and, more particularly, in light of the Supreme Court's recent decision in *Murphy v. NCAA*. I can assure you that H.R. 2651, if passed, will be challenged in court by states objecting to a Federal takeover of their state-sanctioned and state-regulated industries, and our industry will be consumed in costly and protracted litigation that can only harm its economic well-being.

So the question, therefore, that has to be asked is: What is the crisis? What is the overriding Federal interest that requires the Federal Government to cast aside the states in a sweeping takeover of a state-sanctioned, state-regulated industry that does its jobs well? The answer is: There is none, because H.R. 2651 is not really about uniformity.

Couched as an attempt at nationwide uniformity on the issue and regulation of medication in racing, which the industry already does quite well, this bill is actually nothing more than a smoke-screen for the proponents' true purpose, which they have unsuccessfully been trying to accomplish for the past 5 years: the elimination from racing of a safe, prophylactic, effective, necessary medication known as LASIX given on race day.

H.R. 2651 enables an end-run around a 30-year industry scientifically based welfare policy that has been universally adopted by state regulators. To eliminate this medication would cause great economic consequences throughout every level of this industry and cause the greatest equine welfare crisis we have ever known. This is not hyperbole; this is fact.

Finally, our mandate which drives everything we do in this industry is to protect the health and welfare of the horse, the integrity of our sport, the fairness of competition, and the best interest of the betting public. I can assure this committee that there is not a day in this industry when we are not laser-focused on these core principles. H.R. 2651 does not meet these standards.

Thank you.

[The prepared statement of Mr. Foreman follows:]



June 16, 2018

STATEMENT OF THOROUGHBRED HORSEMEN'S ASSOCIATIONS, INC. REGARDING H.R. 2651

The horseracing and breeding industry in the United States is a state-sanctioned and state-regulated business that has been a major source of jobs, revenue and open space for states and local communities for more than a century.

The organizations listed below, who oppose the Horseracing Integrity Act of 2017 (H.R. 2651), represent horse owners, trainers, breeders, regulators, veterinarians, breed registry and rule-making bodies who participate in racing in all 32 horseracing jurisdictions in the United States and who are governed by their respective state laws. Our horsemen's organizations represent tens of thousands of horsemen who collectively have the largest capital investment in the industry, employ tens of thousands of backstretch workers and support thousands of small businesses who play a vital support role in the industry in the 32 racing jurisdictions in this country and who are governed by independent state regulatory bodies charged by state law with tightly regulating the business of racing for the protection of the health, welfare and safety of the horse and rider, the integrity of the sport, and the betting public.

We join with more than 55 national, state, local and industry stakeholder organizations, including the Association of Racing Commissioners International (the national organization representing independent state racing commissions); the American Association of Equine Practitioners and North American Association of Racetrack Veterinarians (the principal organizations representing the equine veterinary community); the American Quarter Horse Association (the governing body of Quarter Horse racing in the United States); the United States Trotting Association (the breed registry and governing body for standardbred racing in the United States) and numerous other racing and breeding organizations in strong and unified opposition to H.R. 2651.

This bill is not in the best interests of the racing industry and is an ill-conceived effort by certain special interests to impose their minority and special-interest views on the regulation of our industry. We have deep reservations about the provisions contained in this proposal because of its potential adverse impact on animal welfare and the economics of the industry.

H.R. 2651 purports to create a system for the uniform regulation and use of medication in the racing industry, but such a system already exists and it works well. Performance-enhancing drugs are not allowed or tolerated in horse racing. There is total uniformity on this issue IN EVERY

THOROUGHBRED HORSEMEN'S ASSOCIATIONS, INC.

*One Corporate Center • 10451 Mill Run Circle • Suite 400 • Owings Mills, Maryland 21117
410-356-8866 • Email: alan@thoroughbredhorsemen.com • www.thoroughbredhorsemen.com*

RACING JURISDICTION, and racing has rules, policies, and laboratory testing that are superior to any sport or business in the world.

Each of the opposing organizations and their constituent members have been involved for decades in working collectively to create and implement uniform policies to safeguard against doping and to protect the health, safety and welfare of the horse and the rider.

We strongly support the existing mechanism by which policies are formulated and embodied in the Model Rules of Racing established by the Association of Racing Commissioners International. These policies form the basis of the regulatory scheme currently in place, made after thoughtful deliberation and dialogue that includes input from an important array of organizations, including the Racing Medication and Testing Consortium, which serves as the industry's scientific and policy arm. As a demonstration of the ongoing efforts to improve our current system, the racing industry is in the process of adopting changes nationally in four areas identified as in need of improvement—distinguishing routine therapeutic medications from prohibited substances which should not be present in the racehorse on race day, the administration of furosemide under the direction of the state racing commissions so that veterinarians do not have access to horses in to race on race day, the accreditation of our testing laboratories pursuant to the strictest accreditation code in ours or any sport—the RMTC Code of Standards for Laboratories, and a multiple medication violation penalty system that operates similar to state motor vehicle systems by attaching points for violations and mandatory additional penalties for repeat offenders. We have attached maps of the progress of these improvements throughout the country in just the past 3 years since their recommended implementation.

H.R. 2651 seeks to replace the current state regulatory system with one controlled by the federal government, with governance placed in the hands of a private group of hand-picked uninformed and unqualified individuals who know little to nothing about the racing industry or the health and welfare of the horse. The bill, which is most likely unconstitutional on its face (a previous version of the Horse Racing Integrity Act from 2015, H.R. 3084, was deemed to be such by the independent Congressional Research Service (see attached Memorandum dated October 27, 2015), and more particularly in light of the recent Supreme Court decision in *Murphy v National Collegiate Athletic Association*), will mire the industry in years of litigation. It strips the states of their ability to control their state legalized and regulated industries, contains an unfunded mandate that gives unfettered taxing authority to a private, federally appointed private group with no accountability rather than the states, deprives horsemen of current due process protections and throws them into the federal judicial system, and threatens the economic well-being of the industry, the best interests of the health and welfare of the horse and rider. It should be noted that lotteries, casino gaming and now sports betting, like horse racing, are state-approved and sanctioned businesses that are regulated by the states and not the federal government.

Couched as an attempt at getting nationwide uniformity on the use and regulation of therapeutic medication in racing, H.R. 2651 is actually nothing more than a smokescreen for the proponent's true purpose - the elimination of a safe, effective, necessary and tightly-regulated medication (furosemide) that is given on race day to protect horses from bleeding in the respiratory tract. This has been a widely accepted 30-year equine welfare policy to mitigate or prevent the effects

of a condition recently elevated in severity to a chronic disease in race horses by the American College of Veterinary Internal Medicine.

The current industry policy, which endorses use of this medication because it is in the best interests of the health and welfare of the horse and the betting public until an alternate and effective therapy is developed, enjoys broad industry consensus and scientific support. The true purpose of H.R. 2651 is not medication uniformity, which the industry does quite well notwithstanding that it is a state sanctioned and state-regulated business. Rather, it is an effort by the proponents to do an end-run around the state regulated racing industry in the United States and state regulators, who have unanimously determined that the administration of furosemide to horses on race day is in the best interests of the health and welfare of the horse, to impose by federal intervention the desire of a minority of special interests on an industry that collectively is, and has been, overwhelmingly opposed to their views, to end the practice. Should there be any doubt about the motives of the proponent organizations to impose their will on an industry that opposes them, they have enlisted the support of animal rights groups such as the Humane Society, who make inflammatory and wildly irresponsible claims that the administration of furosemide to horses on race day is tantamount to doping, notwithstanding that there is absolutely no scientific evidence to support their view. Indeed, the science is to the contrary. For the racing industry, it is all about the health, welfare and safety of the horse and rider and protection of the betting public.

Finally, H.R. 2651 would create a massive and completely unnecessary new level of federal bureaucracy on top of an existing state regulatory structure that has been in place for more than 100 years. We are especially alarmed by the provisions in H.R. 2651 that would allow this newly created federal bureaucracy to impose UNLIMITED NEW TAXES on our industry, particularly horse owners, without any checks or balances.

Our mandate, which drives everything we do in this industry, is to protect the health and welfare of the horse, the integrity of our sport, the fairness of competition and the best interests of the betting public. We are laser focused on these core principles. H.R. 2651 does not meet these standards.

The below industry stakeholder organizations, who are involved in the daily regulation of our sport and who are committed to the industry's mandate, oppose H.R. 2651. **We cannot emphasize enough that the racing industry—Thoroughbred, Standardbred and Quarter Horse—is united in opposition to H.R. 2651.** It is further telling that both the American Horse Council and the National Thoroughbred Racing Association, the racing industry's 2 principal federal lobbying organizations, are and have been silent on H.R. 2651, signifying the divisiveness of this legislation and its polarizing effect within the industry.

Thoroughbred Owners of California

National Horsemen's Benevolent and Protective Association, including the following affiliates:

- Alabama HBPA
- Arizona HBPA
- Arkansas HBPA

- Canadian National HBPA
- Charles Town (West Virginia) HBPA
- Colorado Horsemen's Association
- Finger Lakes (New York) HBPA
- Florida HBPA
- Indiana HBPA
- Iowa HBPA
- Illinois HBPA
- Kentucky HBPA
- Louisiana HBPA
- Michigan HBPA
- Minnesota HBPA
- Mountaineer (West Virginia) HBPA
- Nebraska HBPA
- New England HBPA
- Ohio HBPA
- Oregon HBPA
- Pennsylvania HBPA

- Tampa Bay Downs (Florida) HBPA
- Thoroughbred Racing Association
of Oklahoma
- Washington HBPA

California Thoroughbred Trainers Association

Thoroughbred Horsemen's Association and its affiliates:

- Delaware THA
- Illinois THA
- Maryland THA
- New Jersey THA
- New York THA
- Pennsylvania THA

Harness Horsemen International and its affiliates:

- Cloverleaf (Maryland) SOA
- Delaware SOA
- HHA of New England
- Illinois HHA
- Indiana Standardbred Assn.
- Kentucky HHA
- Maine HHA
- Meadows (Pennsylvania) SOA
- Michigan HHA

- Minnesota Harness Racing
- Ohio HHA
- Ontario HHA
- Pennsylvania HHA
- SBOA of New Jersey
- Western New England HHA

Association of Racing Commissioners International

United States Trotting Association

American Quarter Horse Association

American Association of Equine Practitioners

National Association of Racetrack Veterinarians

Alan M. Foreman

Chairman and CEO, Thoroughbred Horsemen's Associations, Inc.

Attachments

Mr. LATTA. Thank you very much for your testimony.
Mr. Janney, you are recognized for 5 minutes.

STATEMENT OF STUART S. JANNEY III

Mr. JANNEY. Good morning, Mr. Chairman, Congresswoman Schakowsky, and distinguished members of the committee. Thank you for the opportunity to speak at today's hearing on the Horseracing Integrity Act of 2017.

This issue is extremely important to the Thoroughbred industry and especially to The Jockey Club, which has been advocating for medication reform in our sport for decades. The Jockey Club is the breed registry for the Thoroughbreds in the United States and Canada. As the chairman of The Jockey Club, I would like to explain why this legislation is so important to us.

If we reflect on racing's history, we understand that until the 1960s racing was local. I grew up in Maryland, and my parents were very successful in Maryland racing. On rare occasions, they ventured to New York with a good horse, but, essentially, they raced only in Maryland. Who bet on their horses? People in Maryland who went to the Maryland tracks. Thus, it made sense that their racing activities were regulated by the State of Maryland. And, by and large, it worked.

Then, two things happened. First, people learned how well horses travel. They can step off a van in the morning, run well in the afternoon, and then travel home that night without a problem. Second, interstate simulcasting was introduced. In 1978, Congress passed the Interstate Horseracing Act, which enabled simulcasting and wagering across state lines.

However, the state regulatory structure never changed. I want you to realize that our Triple Crown races are conducted under different sets of rules—what drugs can be administered, withdrawal times for those drugs, penalties, and security protocols. They are all different. Over the last couple of weeks alone, I have run horses in New York, New Jersey, Maryland, and Kentucky. In total, I need licenses in nine states, every one with a different set of rules.

These are the facts of thoroughbred racing today. Our sport is international. Our horses are sold to buyers around the world. Our stallions shuttle among continents, and bets cross state and national borders. And that is the fastest growing segment of our wagering.

We are entering an age of sports betting when racing will hopefully share betting platforms with many other sports, none of which play by different rules on a state-by-state basis.

Opponents of this bill will tell you instances of cheating are remote, drug positives declining, the states are well on their way to uniformity, that the rules we have are fine, that their horses need race-day medication even though the rest of the world prohibits it, that out-of-competition testing isn't necessary.

Well, let me tell you about Murray Rojas, a trainer in Pennsylvania who is charged with wire fraud, conspiracy, and misbranding of prescription drugs. A fellow trainer testified that private veterinarians told horsemen which drugs were being tested for at the state's lab. Horsemen, of course, requested race-day treatments accordingly to avoid getting caught, based on that knowledge. That

was bad, but the performance of the racing commission was worse. They did nothing, and the FBI had to get involved.

It is naive to suggest that these problems are not occurring in other states. Travis Tygart, CEO of the United States Anti-Doping Agency, will tell you that the most important part of USADA's system is out-of-competition testing. When you don't know when you are going to be tested, when you know your samples will be tested by an accredited lab and held for years, when you know you will be penalized, then you have a real deterrent against cheating.

I am sure many of you wonder why any industry would ask Congress to engage in an area that has been the domain of state regulators. Well, despite decades of trying to achieve uniformity by self-regulation, we have failed. Also, Congress and this committee in particular helped save our industry by passing the aforementioned Interstate Horseracing Act, and we hope you can do so again.

We strongly believe that our sport needs an independent organization to apply uniform rules, stringent out-of-competition testing, tough penalties, and effective enforcement procedures. These measures will ensure clean competition and improve safety for horses and humans alike. This is consistent with The Jockey Club's core belief that horses should compete only when they are free from the influence of medication.

We very much look forward to working with you.

Thank you.

[The prepared statement of Mr. Janney follows:]

Testimony by Stuart S. Janney III
Chairman
The Jockey Club
House Energy & Commerce Subcommittee on Digital Commerce and Consumer Protection
HR 2651 Horseracing Integrity Act
Friday, June 22, 2018

Dear Chairman Latta, and Ranking Member Schakowsky,

My name is Stuart Janney, and I am the Chairman of The Jockey Club and I appreciate you giving us the opportunity to share our support of H.R. 2651, the Horseracing Integrity Act and its importance on our industry.

We have all seen how Congressional hearings in the past have expedited beneficial changes in other professional sports, particularly in the area of performance enhancing drugs.

On behalf of The Jockey Club and the Coalition for Horse Racing Integrity, I can tell you we are hopeful that will be the case with this hearing and that it will result in the passage and enactment of the Horseracing Integrity Act, H.R. 2651, which would establish an independent non-profit corporation with the responsibility for developing and administering an anti-doping and medication control program for horse racing.

This legislation, when passed, would enhance the overall integrity of horse racing and ensure that level playing field for those who compete (owners, trainers and jockeys) and for those who wager on the outcome of our races.

Beyond that, it will help sustain and grow a sport that is part of a vibrant equine industry that accounts for an economic impact of \$122 billion dollars a year as well as 1.74 million jobs and \$79 billion dollars in salaries, wages and benefits. [American Horse Council Economic Impact Study of 2017].

Even more importantly, this legislation will further ensure the well-being of our equine athletes.

As a Thoroughbred owner and the chairman of The Jockey Club, I have a deep interest in this issue for both personal and professional reasons.

I took over my parents' racing stable in the late 1980s. Today, I have about 20 mares and their offspring are trained by Shug McGaughey at Belmont Park or at our training center at Fair Hill, MD, before going to Florida for the winter months.

We have won some great races through the years, including the Kentucky Derby with Orb on May 4, 2013.

On the professional side, this issue is extremely important to the Thoroughbred industry, and especially to The Jockey Club, which has been advocating for medication reform, including uniform rules, in our sport for decades.

I would like to share with you some background of The Jockey Club and explain why this legislation is so important to us.

The Jockey Club is the breed registry for Thoroughbreds in the United States, Canada, and Puerto Rico. It was formed in 1894 to maintain the integrity of *The American Stud Book* and to ensure that all foals are the descendants of a sire (father) and dam (mother) that were registered Thoroughbreds.

To register a Thoroughbred in North America, breeders must comply with the rules of registration as set forth in the *Principal Rules and Requirements of The American Stud Book*. You can learn more about The Jockey Club at jockeyclub.com.

However, The Jockey Club's contributions to the Thoroughbred industry go well beyond registration. The Jockey Club has a group of commercial, for-profit subsidiaries and a commercial partnership, each with a twofold purpose: to serve specific segments within the industry using highly efficient, state-of-the-art technology platforms and to generate profits that are invested in myriad industry initiatives designed to improve the health, safety, and welfare of our equine athletes.

For many years, The Jockey Club has advocated for the welfare of Thoroughbreds during and after their racing and breeding careers. We have spearheaded or assisted with numerous initiatives devoted to medication uniformity and reform.

The welfare and safety initiatives include:

- Thoroughbred Aftercare Alliance
- Thoroughbred Incentive Program
- Equine Injury Database
- Thoroughbred Safety Committee
- Welfare and Safety of the Racehorse Summits
- Jockey Health Information System
- Jockey Injury Database
- Pre-race examination software module
- Thoroughbred Connect
- Retirement Checkoff Program
- Tattoo Identification Services

The medication uniformity and reform initiatives include:

- Racing Medication and Testing Consortium (RMTC)
- Graded Stakes Out-of-Competition Testing Grant Fund
- Reformed Racing Medication Rules
- A trainer rulings database (thoroughbredrulings.com)
- Horseracingreform.org

These initiatives have helped with welfare, safety, and medication reform, but unfortunately, the regulation of horse racing in the United States is still highly fragmented.

For example, the RMTC, a national organization committed to tackling issues relating to the medication and post-race testing of racehorses, has been working for more than a decade to promote uniform rules

and testing standards at the national level, culminating in the National Uniform Medication Program (NUMP) in 2012.

The National Uniform Medication Program featured these four components: implementation of a two-tier drug classification system, race-day furosemide administration by an official veterinarian, accreditation of all equine drug-testing facilities, and adoption of the current Association of Racing Commissioners International (ARCI) Penalty Guidelines for Multiple Medication Violations.

However, as of December 2017, not one state had adopted all components.

In December 2016, the latest component of the NUMP, the out-of-competition testing protocol, was approved by the ARCI. Eighteen months later, the industry is still awaiting uniformity among racing jurisdictions with this essential component of competition integrity.

The Graded Stakes Out-of-Competition Testing Grant Fund program, designed to encourage more out-of-competition testing for the presence of blood doping agents and ARCI Class 1 substances, was implemented by The Jockey Club in 2014, yet only a handful of tracks have taken advantage of the program.

Even more confounding is that racing commissions refuse to divulge the number of out-of-competition tests that have been performed.

As we have learned from other sports worldwide, transparent out-of-competition testing is vital to any successful anti-doping program.

Many of you, I am sure, may be wondering why any industry would ask Congress to engage in an area that has been the traditional domain of state regulators.

There are two reasons.

First, there are 38 racing jurisdictions in the U.S., and each is governed by its own set of rules. Despite decades of trying to achieve uniformity, the goals set for and by the industry have not been achieved.

Secondly, Congress has helped our industry in the past. In 1978, this committee passed the Interstate Horseracing Act (IHA), which allowed wagering across state lines. Today, fully 90% of all wagers are interstate in nature, and our industry would be a shell of itself without the IHA.

If anyone needs further proof that Thoroughbred racing is an interstate activity, consider this: the 27 horses who competed in the recently completed Triple Crown races [Kentucky Derby, Preakness and Belmont Stakes], raced at an average of five different tracks and 3.5 different states [as of June 9, 2018].

But it seems like our industry is continually hampered by a system of rules and regulations from another era. In fact, many of the laws we have on the books were written when state racing commissions were created more than five decades ago. The world, and our sport, has changed drastically.

With the growing sophistication of performance enhancing drugs, we always seems to be a step behind the cheaters. We've read and heard ugly tales about the use of demorphin, cobra venom, steroids, blood doping and "milkshaking."

We strongly believe that our sport needs an independent organization, free of conflicts of interest, to apply uniform rules, stringent out-of-competition testing, tough penalties, and effective enforcement, which will ensure clean competition and improvements in racing safety.

This is consistent with our core belief that *horses should compete only when they are free from the influence of medication.*

This is why The Jockey Club supports the passage of the Horseracing Integrity Act of 2017, H.R. 2651, and why it continues to encourage other like-minded organizations and individuals to join its efforts.

Under the aegis of the United States Anti-Doping Agency (USADA), the agency recognized by Congress as the official anti-doping agency for the Olympic, Pan American, and Paralympic sports, H.R. 2651 would create the Horseracing Anti-Doping and Medication Control Authority (HADA), a private, not-for-profit, non-governmental, independent authority responsible for developing and administering a nationwide anti-doping program, including extensive out-of-competition testing, for horse racing.

With limited oversight under the Federal Trade Commission, HADA would be governed by a board composed of the chief executive officer of USADA, six individuals from the USADA board, and six non-conflicted experts selected by USADA who have demonstrated experience in a variety of horse-racing areas.

HADA would work collaboratively with state racing commissions and their respective staff members throughout the country, and would be funded entirely by the industry. The Act allocates no federal tax payer funding to HADA.

Significant support for this reform exists throughout the racing industry, including Breeders' Cup Ltd.; Consignors and Commercial Breeders Association; the International Federation of Horseracing Authorities; Keeneland Association; New York Racing Association; Frank Stronach, founder of The Stronach Group, which owns several tracks; The Jockey Club of Canada; the Thoroughbred Owners and Breeders Association; and the Water Hay Oats Alliance, which includes approximately 65 racehorse trainers.

Many animal welfare groups also back the legislation, including the American Society for the Prevention of Cruelty to Animals, The Humane Society of the United States and Humane Society Legislative Fund, and the Humane Society Veterinary Medical Association.

Several prominent individuals have expressed their sentiments in support of federal legislation: [on the Coalition for Horse Racing Integrity website]. A small, abbreviated sample:

Arthur and Staci Hancock, Founders of the Water Hay Oats Alliance and the owners of Stone Farm in Paris, KY: "With the support of the Horseracing Integrity Act, our great sport can rebuild its reputation, protect our beloved horses and their jockeys from catastrophic injury, AND reclaim racing's place as one of America's top spectator sports."

Chris McCarron, Hall of Fame jockey: "As a former jockey and instructor of future jockeys, horsemen and horsewomen, I believe it is imperative that the efforts to establish uniform medication rules, including the penalties that should be imposed on any person(s) violating such rules, should be the most important item on any agenda related to thoroughbred horse racing. I support the efforts to pass legislation that

would provide an oversight role of the US Anti Doping Agency because all other efforts have failed miserably."

Representative Andy Barr (R-KY): "My vision is that a new golden era of Thoroughbred racing is not only possible but readily achievable with reform that tears down barriers that divide the industry and unites the sport under a single, uniform set of medication rules and procedures. ... With the privilege of representing the Horse Capital of the World comes the responsibility of fighting for its future."

Steve Beshear, former Governor of Kentucky: "There is no state in this nation with more at stake both economically and emotionally [than Kentucky] as our industry wrestles with the issue of medication and its impact on safety, integrity and trust...[The last few decades have] "demonstrated conclusively that individual state racing commissions just can't get this job done...Folks, the only way we're going to achieve those changes is through federal legislation."

Hall of Fame trainer Jonathan Sheppard: "We need more sophisticated drug testing, stiffer penalties for major offenses, and uniform testing and medication policies. As a trainer who races in many different states, it has become almost impossible to keep up with all the permissible dosages and withdrawal times. Although a lot of good work has been done to simplify these rules, I believe that the time has come for horse racing to follow the lead of human athletes and to appoint an independent body to police our sport. There is just too much money and too much self interest at stake to expect a level playing field if this is done internally."

Barry Irwin, owner of Team Valor International: "We need the government to do one thing for us and that is to use its standing to empower USADA...USADA is the solution not only because it is effective at what it does, which is to ensure the integrity of sport, but because its independence from the sport itself and its hierarchy is embraced totally by a public hungry for a return to the ideals of sportsmanship. I hope that all participants in racing realize the importance of this new legislation and do whatever they can to support it."

Ultimately, HADA would achieve uniformity and help ensure equine welfare, protect the integrity of the sport, and promote a sustainable industry.

The Jockey Club's determination to enhance the welfare and safety of horses and riders and to achieve medication uniformity and reform is longstanding and well-documented.

We will continue to devote our human, financial and technological resources toward these goals.

In closing, I would like to reiterate some sentiments I expressed at The Jockey Club's annual Round Table Conference in Saratoga Springs, NY last August.

We believe it is appropriate for the federal government to police racing. Those who cheat are corrupting the interstate wagering system -- the very definition of federal responsibility and a system made possible by the federal Interstate Horseracing Act of 1978.

Second, the states in so many ways have demonstrated their inability to get the job done.

Think of how many of our problems would be addressed to some degree by a uniform system of regulation, good testing, and penalties with teeth. It wouldn't address all of our sports issues, but it would be a great start and a meaningful foundation for growth.

We look forward to working with this Committee and other state or federal agencies or lawmakers on the passage of this bill.

Thank you, again, for your interest in our sport and for this opportunity to share some insights about H.R. 2651 and its importance to the sport of Thoroughbred racing.

Mr. LATTA. The subcommittee thanks you for your testimony this morning.

And, Mr. Hamelback, you are recognized for 5 minutes. Thank you.

STATEMENT OF ERIC HAMELBACK

Mr. HAMELBACK. Thank you, Mr. Chairman, Ranking Member Schakowsky, and distinguished members. I appreciate the opportunity to testify before you today.

My name, again, is Eric Hamelback. I am the CEO for the National Horsemen's Benevolent and Protective Association, located in Lexington, Kentucky. We are the largest organization representing close to 30,000 owners and trainers of Thoroughbred racehorses in the U.S. and Canada.

I have been involved with horses my entire professional life. Before assuming my current position, I did everything from mucking stalls to managing one of the largest breeding operations in the world—a true horseman.

I wish to state emphatically that the National HBPA and the vast majority of Thoroughbred organizations and two other organizations representing racing breeds, the U.S. Trotting Association and the American Quarter Horse Association, are all on the record in firmly opposing the enactment of H.R. 2651.

The HBPA believes that owners and trainers who cheat by administering drugs with no legitimate therapeutic use in racehorses should be severely penalized. Doping is illegal, and it is immoral.

Data maintained by the state racing authorities compiled by the Association of Racing Commissioners International shows conclusively that doping of racehorses in the U.S. is rare. In fact, the horseracing industry spends millions of dollars on comprehensive testing each year.

In 2017, there were over 354,000 biological samples taken by regulators in the U.S. Only 169 of those tests were positive for drugs that had no business being in the horse. So, to put it plainly, 99.9 percent of all tests were negative of any doping substance. That is a record that should be the envy of every sport that tests for illegal drugs.

Another stat worth noting is that the states representing 95 percent of the dollars wagered in the U.S. are under the same controlled therapeutic medication list, and 100 percent are under the uniform prohibiting performance-enhancing medications.

The HBPA, along with the American Association of Equine Practitioners and the North American Association of Racetrack Veterinarians, draw a very clear distinction between doping and lawful therapeutic medications, such as furosemide, commonly called LASIX.

LASIX is effective in preventing and mitigating bleeding in the lungs, a condition that we call exercise-induced pulmonary hemorrhaging. It is transparent to the public, and it has been safely used for over 40 years. The HBPA supports the use of LASIX and other therapeutic medications for the health and welfare of our horses.

The American Veterinary Medical Association, representing more than 91,000 veterinarians who have no vested interest in horse-

racing, support the AAEP's policy, which clearly states the use of LASIX on race day is the most efficacious way to control EIPH. These veterinary experts should not be ignored.

And yet a minority of voices has called for the ban of LASIX on race day. Those who do so equate usage of LASIX to doping. That is false. The scientific, clinical evidence establishes the facts about LASIX, which include: Nearly all racehorses bleed to some varying degree, and they have a grade of EIPH. LASIX does not prevent post-race detection in other drugs. That is a myth. LASIX is not performance-enhancing. It does not make a horse run faster than its God-given ability to do so. And, finally, LASIX is a choice. You have the choice, as an owner or trainer, to use it.

Some proclaim that the rest of the world does not use LASIX and neither should we. Well, that is misleading at best. LASIX is widely used in training in other countries. From a horse and welfare standpoint, that makes no sense to me. Rather, it should be used on race day, when the stress of competitive racing heightens and the risk of harm caused by the internal bleeding increases.

So, in summary, there is no need for the Federal Government to reinvent the wheel by establishing a new regulatory structure where the state structure is already working well. And a new Federal structure would likely take years to gain the necessary knowledge and would cost millions of dollars. H.R. 2651 is not needed. The job we are doing is being done very well.

Thank you, Chairman. And I appreciate the opportunity to be here, and I am happy to answer any questions as a horseman.

[The prepared statement of Mr. Hamelback follows:]

National Horsemen's Benevolent & Protective Association

**3380 Paris Pike
Lexington, KY 40511
(859) 259-0451**

**Written Testimony of Eric Hamelback
Chief Executive Officer of the National Horsemen's Benevolent and Protective Association
before the
United States House of Representatives Energy and Commerce Committee
Subcommittee on Digital Commerce and Consumer Protection
Hearing on "H.R. 2651, the "Horseracing Integrity Act of 2017"
June 22, 2018**

Mr. Chairman and other distinguished members of the Committee, I appreciate having this opportunity to testify today on behalf of the National Horsemen's Benevolent and Protective Association ("NHBPA"). The NHBPA, based in Lexington, Kentucky, has represented the interests of thoroughbred racehorse owners and trainers in North America since 1940. There are approximately 30,000 owner and trainer members of the NHBPA throughout the United States and Canada, focused on a twofold common goal: safe and fair horse racing on all levels and an unwavering commitment to the well-being of race horses.

The NHBPA has 30 affiliates across the United States and Canada, including: Alabama, Arizona, Arkansas, Canadian Provinces, Charles Town, West Virginia, Colorado, Finger Lakes, NY, Florida, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Montana, Mountaineer Park, WV, Nebraska, New England, Ohio, Oklahoma, Oregon, Pennsylvania, Tampa Bay, Florida, Texas, Virginia and Washington. Membership is open, without restriction, to all owners and trainers licensed by state racing authorities.

The leadership of the NHBPA (and its affiliates), the largest organization in the United States representing owners and trainers of thoroughbred race horses, is democratically elected by the members. There are organizations that purport to speak for thoroughbred owners and trainers are not as representative or as inclusive as the NHBPA.

At the outset, the NHBPA believes it helpful to, again, unequivocally and publically state its position on racing medication and integrity in racing. The use of performance-enhancing drugs has no place in horse racing. The NHBPA believes that owners and trainers who, after a fair hearing, are found to have cheated by intentionally administering drugs that have no legitimate therapeutic use in horses, should be expelled from horse racing.

The NHBPA opposes enactment of H.R. 2651, as do the other two major racing breeds, the United States Trotting Association (USTA) and the American Quarter Horse Association (AQHA) because the bill bans the use of Lasix, seemingly attempting to solve a problem that does not exist. As written, the bill would task the United States Anti-Doping Agency ("USADA") and the Federal Trade Commission (FTC), with carrying out a regulatory initiative that neither appears to have the experience to carry out.

The NHBPA does draw a distinction between illegal doping and lawfully medicating for therapeutic purposes, such as when medications are administered in horse racing by licensed veterinarians to treat injuries and infirmities. For example, a medication, like furosemide (commonly called “Lasix”), that acts to prevent exercised induced pulmonary hemorrhaging (EIPH or “bleeding in the lungs”) during racing, is necessary to keep a horse healthy. Lasix use is not doping, and no one, to my knowledge, can reasonably conclude otherwise. Its use is safe and has been routinely administered by veterinarians for the past 40 years in the treatment of horses. Moreover, Lasix treatment is transparent to the public. It is noted beside a horse’s name in racing programs with the letter, “L”, to note that the horse is racing with Lasix.

The NHBPA supports the continued use of Lasix on race day, as well as the pre-race day use of other common therapeutic medication like phenylbutazone, an anti-inflammatory similar to aspirin used by humans. We further support uniform medication rules, and the application of science-based medication thresholds in post-race test samples to ensure, on race day, that no therapeutic medication that affects performance during the race remains in a horse’s system.

The support for H.R. 2651 comes from a well-financed vocal minority of owners and trainers in the horse industry, some of whom represent private clubs, and who claim “the fragmented system of medication regulation for horse racing in the United States is not working.” The implication here is that the result is widespread illegal drug use or “cheating.” However, those who make that claim offer no evidence to support the notion of rampant illegal drug use. That is no surprise because there is none that I know of.

Medication rules, and provisions for their enforcement have long existed in the 34 jurisdictions that have horse racing with pari-mutuel wagering. Any asserted problem is one of misperception caused by recurrent sensationalism in the public media. News reports often claim that state regulatory bodies are ignoring the illegal use of drugs in horse racing. However, an analysis of regulatory data in thoroughbred racing states shows that such assertions are without foundation.

Horse racing in the United States has the most comprehensive testing program of any sport in the world and employs the most sophisticated and sensitive equipment found anywhere. USADA as the proposed testing authority would not create a change to the methods and protocols that are currently in use. The only significant difference that USADA brings to the table is the lack of equine testing knowledge and the significant additional expenses that would be involved with USADA’s involvement.

In 2017, according to data from state racing commission records compiled by the Association of Racing Commissioners International (“ARCI”), 99.5% of over 354,000 tests of biological samples taken from thoroughbred race horses were negative for drug use. That rate of “clean tests,” by no stretch of the imagination, shows evidence of rampant unregulated drug use. On the contrary those results should be the envy of every other sport that tests athletes for drugs.

While there were a few positive test results in racehorses in 2017, the vast majority were for overdoses of lawful therapeutic medications, the effects of which had not dissipated by race day. Examples of such medications are common anti-inflammatory drugs used for sore muscles,

similar to Aspirin, Advil, and Aleve taken by humans. Only 169 positives, out of a total 354,000 tests, were for illegal substances that serve no purpose other than to dope a horse or “cheat” in an attempt to affect the outcome of a race.

By regulation in every state, therapeutic drugs may be used in the days preceding a race, but not on race day, so that they have no likelihood of affecting performance. Threshold limits for therapeutics are set by state racing commissions so that on race day no horse will be under the direct influence of therapeutic medication, except for the race day use of Lasix.

Unfortunately race day Lasix use, which H.R. 2651 prohibits, without any scientific basis that I know of, and seemingly without regard for the well-being of race horses, is being swept up in the hysteria over alleged doping of horses with illegal drugs, aided and abetted by individuals and organizations that should know better. Media reports that call for a ban on race day medication blur the line between that which is permitted on race day (Lasix) and that which is not (all other therapeutic medication). In turn, this has obscured some basic scientific and medical facts which support the use of Lasix but seem to be ignored by proponents of H.R. 2651:

- The extreme physical stress of hard running causes nearly all horses to bleed in their lungs, some more severely than others. Bleeding in the lungs robs horses of oxygen, causes progressive and irreversible scarring in the lungs, makes breathing more difficult, and can suddenly stop the horse outright (i.e., publicly killing the equine athlete).
- Nearly all bleeding remains internal and is only detectable by endoscopic examination. Detection by an externally visible nose bleed is the rare exception, but is usually the standard in other countries in Europe and Asia for determining whether a horse is a “bleeder.”
- Lasix prevents and lessens bleeding. Usage is safe and has been used effectively for nearly forty years. Published research shows that its use does not prevent the post-race detection of other drugs (“masking”), in part because of the increased sensitivity of test instruments and reliance on plasma samples as opposed to urine. Similarly, research demonstrates that Lasix does not cause a loss of bone density in horses, which would lead to breakdowns.
- Lasix is not performance enhancing. It does not make a horse run faster than its natural talent. On the other hand, bleeding does make a horse run slower and can stop it outright.

While the National HBPA opposes enactment of H.R. 2651 as unnecessary, the organization does recognize the utility of uniform medication rules among the racing states. Medication use, post-race thresholds, and penalties in the past often varied from state to state. That made it very challenging for owners and trainers in a transient industry, for example racing one week in Maryland and the next in Kentucky, to comply with different sets of rules. But lack of uniformity is no longer the problem it once was. In 2012 the Racing Medication and Testing Consortium, the ARCI, and various industry professionals, established the National Uniform

Medication Program (“the Uniform Program”) as a blueprint for achieving uniformity across racing states. It has four parts: (1) a Controlled Substance List that identifies permitted therapeutic medications and prohibited performance enhancing drugs; (2) a component that establishes Lasix as the only therapeutic medication permitted on race day; (3) accreditation of all equine drug testing laboratories through a dual accreditation process; and, (4) penalty guidelines, including enhanced penalties for repeat offenders.

In the six years since the unveiling of the Uniform Program, horse racing has made, and continues to make, significant progress toward uniformity. According to the Racing Medication and Testing Consortium (RMTC), in 2017, 95% of horse racing, measured by the volume of pari-mutuel wagering on races, was governed (at a minimum) by the Uniform Program Controlled Substance List.

Significantly, the Uniform Program permits Lasix use on race day. That is because scientific studies prove the efficacy of Lasix in treating exercise induced pulmonary hemorrhaging (“EIPH”), as evidenced in the 2009 definitive South African study by an international team of researchers. Oddly enough, the study was funded, in part, by the Jockey Club which now opposes the use of Lasix. That study, Hinchcliff, et al., *Efficacy of furosemide for prevention of exercise-induced pulmonary hemorrhage in Thoroughbred racehorses*, JAVMA, Vol. 235, No. 1, July 1, 2009, showed that 80% of the 167 horses in the study suffered from EIPH which, in subsequent races, was alleviated by administration of Lasix to those horses.

In 2015 Hinchcliff et al. went further and conducted a review of all other published scientific studies of EIPH (some of which were equivocal or conflicting) to evaluate the evidence and determine: (1) if EIPH adversely affects the health and welfare of horses; (2) if EIPH affects the athletic capacity of horses; and (3) if Lasix affects the athletic capacity of horses. The consensus study of the literature concluded there was “*moderate to high quality evidence that EIPH is progressive . . . ; that it adversely affects racing performance; that severe EIPH is associated with a shorter career duration; [and], that furosemide is efficacious in decreasing the incidence and severity of EIPH . . .*” See, Hinchcliff, et al., *Exercise Induced Pulmonary Hemorrhage in Horses: American College of Veterinary Internal Medicine Consensus Statement*, J. Vet. Intern Med 2015; 29:743-758.

The American Association of Equine Practitioners (AAEP), with over 9000 veterinarian members, has publicly stated its support for Lasix, and its opposition to H.R. 2651, noting in a June 5, 2017 statement by its President, Dr. R. Reynolds Cowles, that AAEP’s “*current policy on race-day administration endorses use of furosemide [Lasix] to help mitigate the occurrence of exercise-induced pulmonary hemorrhage (EIPH) in the race horse. This policy is based on the overwhelming body of international scientific and clinical evidence.*

The AAEP in an earlier statement warned of the likely result if Lasix is not permitted on race day:

The racing industry should anticipate that other methods will be employed to reduce the incidence of EIPH if a race-day ban on Lasix is instituted. The practice of withholding food and water from the horse in the days

leading up to a race should be expected. As doctors of veterinary medicine we believe that the detriments of withholding food and water to the health and welfare of the horse outweigh the current concerns about race-day Lasix administration.

The racing industry should also expect that unproven and perhaps undetectable products will be used in an attempt to alleviate EIPH on race day. Some of these products may include, but are not limited to, herbal remedies, nutraceuticals, and compounded medications that are not approved for use in the horse and have no scientific merit or efficacy in treating EIPH. The potential harmful side effects of these products to the horse are a serious concern.

The North American Association of Racetrack Veterinarians also supports use of race day Lasix and opposes H.R. 2651. In a November 9, 2017 letter to one of the bill sponsors, NAARV's board member, Dr. Andrew Roberts, stated:

As veterinary practitioners, who tend daily to the health and welfare of racehorses, we have grave concerns about a ban on furosemide [Lasix] on race day. The reason: the drug provides important mitigation of the occurrence of exercised induced pulmonary hemorrhage (EIPH) in the racehorse. This factor is significant in maintaining the health of the animal, and is based on an overwhelming body of scientific and clinical evidence. Furosemide is the only scientifically proven and approved treatment for EIPH in the horse.

As experienced veterinary practitioners our experience also tells us that until science provides an efficacious alternative to the use of this drug, we should not abandon current policy that protects the health and welfare of the racehorse. To do so would eliminate a key protection for horses on race day.

It is also important to note, that the American Veterinary Medical Association (AVMA), which has no vested interest in the racing industry, and represents more than 91,000 veterinarians nationwide, supports AAEP's position on the utilization of Lasix.

Supporters of the H.R. 2651 ban on race day Lasix, seemingly ignoring the scientific evidence and the well-being of racehorses, assert that "the rest of the world does not use Lasix and neither should we." To put it mildly, that is misleading. In European horse racing Lasix is used in daily training to prevent or lessen EIPH, but is not permitted on race day. From a horse welfare standpoint that makes no sense. No one disputes that Lasix works to eliminate or alleviate EIPH. Why not use it on race day when the stress of competitive racing heightens the risk of harm caused by EIPH?

In summary, the NHBPA submits that there is no need for the federal government to reinvent the wheel by designating USADA and the FTC to write and enforce uniform medication rules, which for the most part already exist in the states. We have high regard for USADA's

efforts in policing illegal drug use in human sports competition, but, to our knowledge, it has no expertise in equine veterinary science, or experience in the horse racing industry. Thus, it would likely take USADA years to gain that knowledge and would probably require millions of dollars, in the long run, most likely coming out of the pockets of horse owners and trainers, to create an infrastructure to test the race horses racing across the country in over 30,000 races a year, and conduct enforcement proceedings for violations found.

As a final point, it is worth repeating that in 2017, state racing regulators tested at least 354,000 biological samples from race horses. During the same year USADA, according to its website, conducted less than 13,000 tests, or about 4% of the number of tests conducted by state racing commissions.

In closing, we concur with, and endorse the observations and conclusions of our co-panelists, Edward Martin and Alan Foreman, in their discussion of the H.R. 2651 organizational and structural shortcomings. We would be remiss if we did not point out that we have real concerns over the ultimate funding source for the federal infrastructure authorized under the bill. We believe that the states, and ultimately the NHBPA owner and trainer members, will be saddled with untold costs over which they have no control. This would impose unlimited new taxes on our industry, without any checks or balances, and would threaten the economic well-being of the industry.

According to a recent American Horse Council study, the horse racing industry contributes some \$36 billion annually to the national economy and provides about 240,000 direct jobs. Any measure which will add further regulatory and cost burdens will only harm those state and local economies that depend on the industry.

Thank you for allowing me to testify here today. We hope you will continue to include horsemen in your considerations and decisions in order to properly ensure the health and welfare of our equine athletes. We ask each of you to understand that, H.R. 2651 is not in the best interest of our industry.

For further information:

Eric J. Hamelback
CEO
National HBPA
(859) 259-0451
ehamelback@hbpa.org

Mr. LATTA. Thank you very much for your testimony.
And, Ms. Block, you are recognized for 5 minutes.

STATEMENT OF KITTY BLOCK

Ms. BLOCK. Thank you. On behalf of the Humane Society of the United States and its affiliate, the Humane Society Legislative Fund, I appreciate this opportunity to testify in support of H.R. 2651.

Thank you, Chairman Bob Latta and Ranking Member Jan Schakowsky, for holding this hearing and to Representatives Andy Barr and Paul Tonko for introducing this important legislation.

First, I want to make clear our position on horseracing and our interest in this legislation. We are not opposing horseracing. Our interest is improving the welfare and treatment of all animals, including racehorses.

In 2016, we formed a National Horse Racing Advisory Council. Our goal was to facilitate the exchange of information between people who have spent a lifetime in this industry and those of us who care about equine welfare. This impressive council includes industry experts from The Jockey Club, racehorse breeders, former state racing commission officials, and two hall-of-fame jockeys and is chaired by the former owner of Pimlico.

We believe that everyone who makes a living from this industry has an obligation to protect and enhance the welfare of horses, who are at the heart and soul of this business.

Throughout history, horses have played a key role in the development of our society. They are majestic creatures who have served us in so many ways, from plowing our fields to fighting in our wars. And, today, we partner with these equine athletes in numerous competitions, races, and recreational riding. Horses have often served as a symbol of the American spirit. We have a duty to care for them humanely and to not put them in harm's way and to provide a safe and comfortable life for them once their racing career has ended.

It is a glaring oversight, therefore, that there is no national regulatory body for horseracing. And this creates a disparity of racing regulations and uneven enforcement in the U.S. I also serve as the Humane Society International president, which is the HSUS's global arm, so I am keenly aware that the U.S. is lagging behind other nations with racehoring traditions. In particular, we have offices in the U.K. and Australia, where the horseracing industry is successful without the use of race-day medications.

The ethical issues in horseracing are closely related to concerns raised about doping in a variety of Olympic competitions and professional sports. These industries all have policies against certain types of drug use, and high-profile incidents have left the public concerned about the extent of the problem in these sports.

The racing industry continues to lag behind because too many stakeholders want to maintain the status quo. And the use of illegal substances is not the only problem. Legal therapeutic drugs are also problematic, as they can allow a horse to push through pain, intensifying injury, which can lead to breakdowns, career-ending injuries, and death for both horse and jockey.

This industry has had decades to clean up its act, but it has been unable to do so. This is neither an impulsive government intervention nor an unnecessary one. It comes after the death of thousands of horses, declining fan interest, and a general crisis of confidence in the sport. It is a national industry, and it demands consistent standards rather than the current patchwork of state racing regulations.

Additionally, as this subcommittee knows well, Congress has for the past decade wrestled with the problem of healthy American horses being funneled into the slaughter pipeline, including horses coming from the racetrack. Racehorses with drug-related injuries are often sent to slaughter once the horses are no longer able to run.

Horses can live well into their 20s and 30s, and their racing careers generally span only the first 5 years of life. Horses who are healthy when they retire from racing are in a far better position to transition to second careers and less likely to be sold to killer buyers. If you agree with the 80 percent of Americans who oppose the slaughter of horses for human consumption, this bill will reduce the number of broken-down racehorses killed for their meat.

As an animal protection organization, we have seen repeatedly that any industry taking shortcuts on animal welfare will see a loss of public support. Undeniably, for a variety of reasons, the horse-racing industry is in decline. It is critical that this industry strive to meet the highest standards of animal care. We shouldn't put horses' lives at risk, as there is an alternate path.

Thank you.

[The prepared statement of Ms. Block follows:]

Testimony of Kitty Block
Acting President & CEO
The Humane Society of the United States
before the
House Subcommittee on Digital Commerce and Consumer Protection
H.R. 2651, "Horseracing Integrity Act of 2017"

June 22, 2018

On behalf of the Humane Society of the United States (HSUS), the nation's largest animal protection organization, and its affiliate the Humane Society Legislative Fund, I submit this testimony in support of H.R. 2651, the Horseracing Integrity Act. I express my sincere thanks to Chairman Bob Latta and Ranking Member Jan Schakowsky for conducting this hearing, and offer special thanks to Representatives Andy Barr, and Paul Tonko for introducing this important pro-horse, pro-business legislation.

First, I want to clarify the Humane Society of the United States' position on horse racing and our interest in this legislation. We are not, in principle, opposing horse racing. As an animal protection organization, our interest is in improving the welfare and treatment of all animals—including racehorses. In 2016, we formed a National Horse Racing Advisory Council to serve as a connection between the HSUS and the industry. With the formation of this council, our goal was to facilitate the exchange of information and knowledge between people who have spent a lifetime in the industry and those of us focused on equine welfare. Our council includes industry experts from The Jockey Club, racehorse breeders, former state racing commission officials and

two Hall of Fame jockeys, and is chaired by the former owner of Pimlico Racetrack. We believe that everyone who makes or has made a living from the horse racing industry has a moral obligation to take all reasonable steps necessary to protect and enhance the welfare of the horses who are the heart and soul of the sport and the business. Together with our HSUS advocates, council members, and members of the equine community, we seek to promote the proper care of racehorses both during and after their racing careers, including minimizing risks during training and racing.

The HSUS has probed these issues for decades, visiting tracks and talking to horsemen and women and others within the industry, and has been surprised to learn not only of the absence of a national regulatory body for an industry operating on a big geographic plane and engaging in interstate commerce and wagering, but also of the disparity between racing regulation in the U.S. and those in Australia, Canada, France, the United Kingdom, and other nations also with proud racing traditions. I also serve as president of Humane Society International, the HSUS' global affiliate, so am keenly aware that the U.S. is lagging behind. In particular, Humane Society International has offices in the U.K. and Australia, where the horse racing industry is successful without the use of race day medications which are not permitted on the basis that they are considered to be performance enhancing. In the U.S., these drugs are administered to virtually every horse that races, a circumstance at odds with standards imposed virtually everywhere else in the world.¹

¹ Finley, B. (May 17, 2013). A Painful Truth: A six-part series on medication and the reform movement in U.S. racing, Part III, The International Difference, *Thoroughbred Daily News*, pp. 1-7, available at <http://www.thoroughbreddailynews.com/pdf/magazine/Magazine-Drugs%20in%20Racing-Part%20III.pdf> ("The major difference between the U.S. and the rest of the world, and especially Europe, is that here you back up the veterinary truck to the barn after the horse is entered," said Dr. Rick Arthur, the equine medical director for the California Horse Racing Board. "We did an analysis at Hollywood Park last year and found that the average horse got 5 ½ injections after entering the race before they got their Lasix shot. You don't get that in the rest of the world, where there is a much different way of doing things." . . . "Welfare in Europe and welfare in the U.S. is same word,

While many professional sports have taken crucial steps to rid their sports of illegal drugging, the racing industry continues to lag behind—not because of a lack of leadership, but because too many players want to maintain the status quo, which allows them to circumvent regulatory oversight. The ethical issues in horse racing are closely related to concerns raised about doping in a variety of Olympic competitions, professional bicycling, and professional baseball (except that the horses are not willing participants and have no say in the practice). All of these industries have policies against certain types of drug use, and high-profile incidents have left the public concerned about the extent of the problem in sports. It has clouded the legacy of a number of athletes, and caused titles, prize money, and medals to be relinquished.

The use of illegal substances is not the only problem. Legal therapeutic drugs are also problematic as they can allow a horse to push through pain, intensifying an injury which can lead to breakdowns, career ending injuries, and death. In addition to side effects and unfair advantages, overuse and abuse of legal drugs administered too close to a race can hide existing injury or lameness. Just as in humans, pain is a biological mechanism that allows horses to protect themselves from further injury. This compensatory function may be undercut by drugging, and horses and jockeys incur a significantly greater risk of injury and death.² An analysis of data from the Jockey Club's Equine Injury Database (EID) released on March 19, 2018 shows an increase in the rate of fatal injury in 2017 (1.61 per 1,000 starts) compared to

but welfare in Europe means to train the horse without any chemicals and make him race if he can face the challenge,' said Dr. Roland Devolz, a veterinarian with France Galop. . . '[M]aybe they [U.S. trainers] are frightened that without medication, they will need to do more work, take more care in their training. In Europe, we are of opinion that medication and drugs are not a tool of training. In your country, when there is a problem during training they use medication to mask or solve the question. They forget about the concept of horsemanship.'").

² Bogdanich, W., Drape, J., Miles, D.L., & Palmer, G. (March 24, 2012). Mangled Horses, Maimed Jockeys, *The New York Times*, available at <https://www.nytimes.com/2012/03/25/us/death-and-disarray-at-americas-racetracks.html> ("It's hard to justify how many horses we go through," said Dr. Rick Arthur, the equine medical director for the California Racing Board has stated. 'In humans, you never see someone snap their leg off running in the Olympics. But you see it in horseracing.'").

2016 (1.54 per 1,000 starts).³ The widespread use of both legal and illegal drugs imperils an industry that employs 400,000 Americans.

The lack of strong and consistent national oversight of this industry and the existing fragmented state regulatory system which exists in its place jeopardizes the safety of horses and jockeys, leads to inconsistent and confusing rules and decreases vital public support for the industry. The Horseracing Integrity Act would address the pervasive drug use in the industry, and—as its name suggests—begin to restore some integrity to horseracing, helping both the horses and the business.

The Horseracing Integrity Act focuses on the regulation of the use of drugs and medication in horses in the racing industry. This legislation would create the Horseracing Anti-Doping and Medication Control Authority (HADA), a private, not-for-profit self-regulatory authority that will be under the governance control of the United States Anti-Doping Agency (USADA). USADA, a non-profit, non-governmental agency, is recognized by Congress as the official anti-doping agency for Olympic, Pan American, and Paralympic sports in the United States. HADA would create rules regarding the use of permitted and prohibited substances and develop anti-doping education, research, testing, and adjudication programs. The bill expressly preempts state law on the regulation of medication and drugs in horse racing, thereby ensuring centralized and consistent rulemaking and enforcement in those areas. Further, the enforcement activities envisioned by this legislation would cost the taxpayers nothing as the industry would, rightfully, bear all costs.

The bill also includes stiff penalties for cheating that apply nationwide, with possible sanctions including possible lifetime bans from horseracing, disgorgement of purses and

³ The Jockey Club (March 19, 2018). *The Jockey Club Releases Data from the Equine Injury Database for 2017*, available at <http://jockeyclub.com/default.asp?section=Resources&area=10&story=1039>.

monetary fines and penalties. The bill will ban race-day medication of horses. Horses who need drugs to race should not be enlisted into competition with a cocktail of legal or illegal drugs that could put their safety in jeopardy.

This change in policy is urgently needed because the administering of performance-enhancing drugs is unfair to just about everyone involved in racing—to clean trainers and owners and to the fans who wager on the outcome of races, and importantly to the horses themselves.

This industry has had decades to clean up its act, but has been unable to do so. This is neither an impulsive government intervention nor an unnecessary one. It comes after the premature deaths of thousands of horses, declining fan interest in horse racing, and a general crisis of confidence in the sport. Horseracing is a national industry, and it demands consistent standards rather than the current patchwork of racing regulations. There are 38 pari-mutuel racing jurisdictions in the U.S., with about 100 racetracks, that include Thoroughbred, Quarter Horse and Standardbred (harness) racing. Each state sets up its own rules with respect to medicating of horses, yet horses and their trainers routinely move between the states for races.

This patchwork of state laws has proven dangerous to horses and unfair to racing fans and to responsible owners and trainers. Even the best testing in the United States falls constantly behind as the cheaters in the industry are known to experiment with anything that might give them an edge including Viagra, blood-doping agents, stimulants, cancer drugs, cocaine, “pig juice,” and “frog juice,” an amino acid found naturally in certain species of frogs. “Frog juice” (dermorphin) is 40 times more powerful than morphine and is used to mask an injured horse’s pain. Steven Barker, a chemist and the head of the state testing laboratory at Louisiana State University has stated, “This drug in horses is an abuse of the horse. It puts the horse’s life in

danger. It puts the jockey's life in danger. This is an attempt to cheat. This is bad stuff. This is doping."⁴

It is not reasonable to expect each state to develop its own drug-monitoring apparatus to keep up with the drug users in the industry who are constantly trying to stay ahead of testing protocol. A single expert association is needed that is both independent and capable of conducting cutting-edge research and rigorous enforcement. We cannot ask each state to develop this kind of resource center. It is impractical and costly and it has proved unworkable.

The failure to adopt proper and comprehensive standards has produced an alarming mindset by some racehorse trainers who appear to believe the status quo involves illegal drug use. During the doping trial last summer for two-time Penn National leading trainer Murray Rojas, another trainer, Stephanie Beattie, who also trained at Penn National, admitted she routinely had her horses illegally treated with medications on race day by the same veterinarians who provided drugs to Rojas. "Almost everybody did. 95 to 98%. It was a known practice. We wanted to win and they weren't testing for those drugs at that time."⁵ In our view, the current regulatory scheme does not sufficiently weed out bad actors.

In addition to disparate rules regarding drug use, state regulation varies in other critical ways. For instance, necropsies are considered vital to assessing if an existing injury caused a deadly breakdown. Unfortunately, only 11 states require them. Additionally, not all states require the publication of horse racing deaths, and rules that specify allowable drug levels or how close to race time a drug can be administered vary as well. According to the New York Times, state

⁴ Fortus, B. (June 15, 2012). New testing by Louisiana State Racing Commission results in 10 drug positives. *The Times-Picayune*, available at https://www.nola.com/horseracing/index.ssf/2012/06/louisiana_state_racing_commiss_1.html.

⁵ Robinson, W. (June 29, 2017). Trainer testifies that she and nearly all of her colleagues drugged horses at Penn National: report. *Penn Live*, available at https://www.pennlive.com/news/2017/06/trainer_testifies_that_she_and_.html.

veterinary boards rarely discipline veterinarians who violate racing rules. In New York, only two of the board's 125 disciplinary actions over the last 10 years involved racehorse veterinarians. In Kentucky, Dr. Rodney Stewart's racing license was suspended after he brought cobra venom, a banned nerve-deadening agent, onto the grounds of Keeneland racetrack. Dr. Stewart retained his veterinary license. Dr. Phillip Kapraun kept his Illinois veterinary license after he, too, was fined for possessing snake venom.⁶

Congress has, for the past decade, seriously wrestled with the problem of healthy American horses being funneled into the slaughter pipeline, including horses coming from the racing industry. Many race horses that have been negatively impacted by drugs, and have injuries, are often sent to slaughter to for disposal once the horses are no longer able to run. In fact, Quarter horses are the most common breed sent to slaughter. This problem highlights both excessive breeding among racing breeds and the challenge of dealing with "surplus horses" cast aside by owners and trainers who don't want to or are unable to bear the expense of providing lifetime care for the horses. They sell horses to "kill buyers" and make a couple of hundred dollars, or they pass on the cost to the animal welfare community by turning the animal over to a sanctuary or rescue organization.

Responsibly retiring and ensuring quality of life for racehorses at the conclusion of their racing careers is an industry and owner responsibility. While too many horses still lack a sufficient safety net after their racing careers, we are encouraged by some of the industry initiatives for Thoroughbred aftercare including the Thoroughbred Aftercare Alliance and

⁶ Bogdanich, W., Drape, J., & Ruiz, R. (Sept. 21, 2012). At the Track, Racing Economics Collide With Veterinarians' Oath. *The New York Times*, available at <https://www.nytimes.com/2012/09/22/us/at-the-track-racing-economics-collide-with-veterinarians-oath.html>.

Thoroughbred Charities of America. There is still work to do, but we are optimistic about the prospects for even better and more innovative programs for aftercare in the racing industry. The key to a former racehorse's prospects for successful transition to a new career is retiring from racing without health and lameness issues that prevent them from participating in their next careers. Horses generally live well into their 20's or early 30's and their racing careers generally span only their first five years. Horses who are healthy when they retire from racing are in a far better position to transition to second careers and far less likely to end up in the slaughter pipeline. In addition, reckless use of drugs—used to allow injured animals to compete rather than to rest—creates unnecessary risks for the animals. Rampant drugging of horses to get them into the gate when they should be on stall rest may be part of the explanation for the inordinately high rates of breakdowns, compared to the rates of catastrophic injuries tabulated in other racing nations. If you agree with the 80% of Americans who oppose the slaughter of American horses for human consumption,⁷ support for this bill will diminish the number of broken down racehorses unable to transition to new careers.

It is past time that all members of the horse racing industry, including trainers and veterinarians, accept the fact that policing themselves is not working and that the integrity of the sport is at a crossroads. Without reform, including the passage of the Horseracing Integrity Act, horses and jockeys will continue to be at risk, and fans will increasingly support clean sports where champions are determined based on athletic prowess, not a syringe loaded with performance enhancing drugs.

⁷ American Society for the Prevention of Cruelty to Animals (Feb. 1, 2012), *ASPCA Research Confirms Americans Strongly Oppose Slaughter of Horses for Human Consumption*, available at <https://www.asPCA.org/about-us/press-releases/aspca-research-confirms-americans-strongly-oppose-slaughter-horses-human>.

As we have seen repeatedly across a wide range of industries, any industry that takes shortcuts on animal welfare or cheats or misleads the public will see a loss in public support. Undeniably, for a variety of reasons, the horse racing industry is in decline and people have a wider array of gaming options than ever. It is critical that the industry strive to meet the highest standards of animal care and honesty—an achievable goal for the horse racing industry. I urge you to do what's best for an industry that needs Congress' help establishing comprehensive national standards to prevent widespread cheating within its ranks. We shouldn't put horses' lives at risk when there is an alternate path. Thank you.

Mr. LATTA. Thank you very much for your testimony.
And, Mr. Martin, you are recognized for 5 minutes.

STATEMENT OF ED MARTIN

Mr. MARTIN. Thank you very much, Mr. Chairman. I very much appreciate the opportunity to be here.

And I was instructed firmly by the chairman of the Ohio State Racing Commission to stand up for the Standardbreds in Ohio that race in your state as well as all the horses who race in everybody else's states.

I am here to explain what is done to police the sport of horse-racing by the states, put it in perspective with other sports, address misconceptions some people have, and identify where we believe the real need is to protect the welfare of the horse.

There have been a lot of things said so far, and I would urge—I can't squeeze them all into 5 minutes, but I have a rather lengthy written testimony that addresses almost everything that has already been said.

The ARCI sets standards for thoroughbred, standardbred, and quarter horse racing. We represent the state regulators in the U.S., the Federal and provincial regulators in Canada, as well as the national regulator in several other jurisdictions. Our model rules and drug classification systems are respected worldwide, and some jurisdictions have adopted portions of the model rules by reference.

First, let me say that the state racing regulators are totally uniform in prohibiting the presence of performance-enhancing drugs in a horse when it races.

Secondly, there is total uniformity in the adoption of a 30-year equine welfare policy to permit a voluntary race-day equine welfare treatment known as LASIX.

Third, with the exception of two states, the drug testing labs are internationally accredited. There is also total uniformity in the use of progressive penalties and substantial uniformity in adoption of testing thresholds for 30 appropriate medications deemed normal and appropriate for equine care.

State racing commissions do more testing in racing than any other professional sport. Last year, 354,000-plus biological samples were sent to the labs. By comparison, all of the World Anti-Doping Agency labs tested 300,000 samples and the U.S. Anti-Doping Agency tested 13,000 samples.

And to compare the programs, you have to look at the results. The clear rate in U.S. racing commission testing, USADA testing, and WADA testing is comparable. When you look at the substances being detected by the WADA labs, which are readily available on the internet, you will see that they are not catching anything that the state racing commissions don't catch or have the ability to catch.

Does that mean we don't have a challenge? No. We do have a challenge. We have the same challenge that every other sport has: use of substances that are undetectable or unknown. But based upon the numbers, which are factual and maybe inconvenient for those advocating this bill, horseracing does as good a job or as bad a job as the Olympics or any other sport.

It is a little-known fact that the standards in horseracing are stricter than they are under the World Anti-Doping Agency because we do not permit athletes to obtain permission to use performance-enhancing drugs in competition, as is allowed under the therapeutic-use exemption provisions of the WADA code.

According to the 2016 USADA annual report online, they approve about 81 percent of their use exemption requests. And athletes are given permission to use hormones, stimulants, narcotics, cannabinoids, and a host of other drugs that we would never, ever, ever allow to be in a horse when it races. Now, consider that there is going to be an expansion of sports betting. There are things allowed in human sport that we don't allow in horseracing.

The anti-doping and medication policies we have are developed by considerable input from a network of anti-doping experts as well as the veterinary community. We are opposed to this bill because it is a radical and unnecessary federalization of a state responsibility that is exercised effectively.

I would like to conclude by saying this. In most states, the regulatory jurisdiction over the horse does not reach young horses intended to become racehorses. As the bones of these young horses mature, the stage is set for their racing career. But there are drugs being used on these horses that the FDA has warned veterinarians about their safety, yet they are being used and used widely. Our concern is that their use may adversely affect bone development in ways that can contribute to stress fractures, which we already know are linked to catastrophic breakdown.

This is the unregulated aspect of the sport, and we believe it needs to be addressed if we are serious about protecting our horses. This is controversial because it starts a discussion on regulating a part of the industry that currently has no regulatory oversight.

We ask that this subcommittee clearly put an end to the debate on H.R. 2651. Only then can the industry, its regulators, interested public organizations, and interested lawmakers get on the same page on how to address ways to protect our horses. There are things the Federal Government can do to help; this proposal is not one of them.

[The prepared statement of Mr. Martin follows:]

TESTIMONY OF
EDWARD J. MARTIN
 PRESIDENT/CEO
 ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL
 Friday, June 22, 2018 – Subcommittee on Digital Commerce and Consumer Protect
 Energy and Commerce Committee, US House of Representatives.

MAJOR POINTS OF TESTIMONY:

- The state racing regulators are totally uniform in prohibiting the presence of performance enhancing drugs in a horse when it races.
- There is total uniformity in adoption of a thirty year equine welfare policy to permit a voluntary race day equine welfare treatment scientifically proven to protect the horse.
- There is total uniformity in the use of progressive penalties. There is also penalty reciprocity between the states. A penalty in one is honored in all.
- The state racing commissions do more drug testing than is done in any other professional sport. 354,787 biological samples were sent to the labs in 2017. The US Anti-Doping Agency tests approximately 13,000 samples each year, roughly 4% the size of horse racing program.
- The anti-doping standards in horse racing are more stringent than human sport. Racing does not provide Therapeutic Use Exemptions (TUEs) allowing athletes to train and compete with a performance enhancing drug in their system.
- H.R. 2651 is a radical and unnecessary federalization of a state responsibility that is exercised effectively. Equine medication policies would be determined by a private entity and federal agency with no veterinary expertise or background with horses.
- Congress should focus instead on that part of the racing industry that is unregulated and the unencumbered use of certain drugs, despite FDA warnings, which might be contributing to catastrophic breakdowns.
- A portion of the 9.5 million annual federal appropriation for anti-doping programs should be set aside for horse racing research.
- There are things the Congress can have the federal government do that would assist and augment the efforts of the state racing commissions in protecting horses and combating those who would cheat. H.R.2651 is not one of them.

[The attachments to Mr. Martin's statement can be found at: <https://docs.house.gov/meetings/IF/IF17/20180622/108463/HHRG-115-IF17-Wstate-MartinE-20180622.pdf>.]

Mr. LATTA. I thank the gentleman for your testimony.

And, at this time, Mr. Fravel, you are recognized for 5 minutes for your statement. Thank you.

STATEMENT OF CRAIG FRAVEL

Mr. FRAVEL. Mr. Chairman, Ranking Member Schakowsky, and members of the committee, it is a great privilege to have the opportunity to address you today and to advocate for the passage of the Horseracing Integrity Act of 2017.

My name is Craig Fravel, and I am the president and chief executive officer of Breeders' Cup Limited. Our mission at Breeders' Cup is to promote the racing and sale of Thoroughbred horses through the conduct of the Breeders' Cup world championships—in my view, the preeminent international championships in all of Thoroughbred racing.

I wish to begin my comments by emphasizing that I am not here to tear down this great sport. You will hear from others that we have made great strides in medication reform and enforcement over the last 10 years, and I do not debate that.

My comments today, however, are about the problems we still face with the day-to-day conduct of racing and the confidence of the wagering and nonwagering public in our product and about conducting the sport under common rules administered consistently and fairly for all.

When racing was reintroduced in the 1930s and 1940s, it was a highly local sport, governed by state regulatory authorities in those states that chose to permit parimutuel wagering. There was no wagering across state lines, at least not legally. And, for the most part, horses stayed put in the regions or states they called home, with some shipment to winter tracks in Florida or California or even to Bowie, near here, in my home State of Maryland. While horses did travel to participate in the Triple Crown races, for the most part it was a local game understandably played under local rules.

Today, by contrast, wagering is primarily a simulcasting effort. And since the mid-1990s, an increasing share of our handle is placed online through authorized and highly regulated advance-deposit wagering companies. It is now commonplace for horses to ship from state to state, from California to New York and vice versa, or from overseas. This week, for example, there are U.S.-based horses running at the Royal Ascot meeting on the grounds of Windsor Castle, as guests of Her Majesty, Queen Elizabeth II. And last year at the Breeders' Cup in Del Mar, California, there were 38 international runners from Ireland, the U.K., France, and South America.

It is a modern sport now that is global in scope and that faces the challenges associated with all sports, whether human or equine. The challenges are modern, particularly in the world of medication, both legal and illegal. Again, there has been progress, but, for the most part, we remain a locally governed sport with different regulatory and enforcement capabilities in each state.

Yet we all need to be aware of the potential abuse of designer drugs, synthetic steroids, and similar agents and the possibilities ahead for manipulation of the equine genome to create or alter physical traits of our competitors.

These modern challenges require concentrated, efficient, and sophisticated national programs for investigating regulatory matters, researching threats, testing, and prosecution. An international sport deserves the most advanced form of regulatory mechanism, not one based on 38 different state agencies with varying levels of funding, expertise, and experience.

As I have said many times, if we were starting from scratch, knowing what we know now, would we have created a national organization such as the one contemplated by the Horseracing Integrity Act, or would we have 38 different rulemaking and enforcement bodies? I think it is obvious that we would choose the former and not the latter.

The current process for national rulemaking remains unusually cumbersome. Let me give one example. And while it made sound like I am picking on my friends in California, I don't mean to single them out.

California is one of the most capably regulated states. Yet, when it came time to adopt the third-party LASIX administration leg of the RCI/RMTC National Uniform Medication Program, the regulation took almost 4 years to adopt. Unfortunately, the Breeders' Cup had to adopt house rules to effectuate this important reform when running in California.

From start to finish, the time a model rule is adopted, the implementation process across 38 states can take years. That is not to say that rulemaking should be fast-tracked all the time, nor should it be arbitrary. It should, however, allow for quicker implementation across state lines, as contemplated by the Horseracing Integrity Act.

Before I became a racing executive, I spent the first part of my career as a securities lawyer, beginning my practice here in Washington, D.C. Having practiced law in that arena, I am a big believer in the power of consumer confidence in a product, and the fact that the Securities and Exchange Commission has primary regulatory authority over the securities industry engenders consumer confidence in financial reporting, fair trading, and efficient markets. While there of course have been failings, on the whole, the public has confidence in the markets.

And I believe a commonsense approach to regulation in our thoroughbred business will enhance consumer confidence and bring about extraordinary gains economically as we present our great sport in the best light possible—the sort of light that deserves to be shone on such a great game.

Mark Twain just once said that it is a difference of opinion that makes horseracing. It is my sincere hope that the differences of opinion we argue about in the future are about who has the best horse, not about how our sport is regulated and conducted.

Thank you.

[The statement of Mr. Fravel follows:]

Craig Fravel
 President & CEO
 The Breeders Cup Limited
 House Energy & Commerce Subcommittee on Digital Commerce and Consumer Protection
 HR 2651 Horseracing Integrity Act
 Friday, June 22, 2018

Mr. Chairman and Ranking Member Schakowsky, and Members of the Committee:

It is a great privilege to have the opportunity to address you and to advocate for the passage of the Horseracing Integrity Act of 2017. My name is Craig Fravel and I am the President and Chief Executive Officer of Breeders' Cup Limited. Our mission at the Breeders' Cup is to promote the racing and sale of Thoroughbred horses through the conduct of the Breeders' Cup World Championships, in my view the pre-eminent international championships in all of Thoroughbred racing conducted each year with the goal of identifying the best of the breed in every category from juvenile fillies and colts to the best older horses in the world competing in the Breeders' Cup Turf and the Breeders' Cup Classic. When the competition ends each year in late October or early November we will have given away more than \$30 million in purses and awards. Our Championships have in recent years been conducted at spectacular venues such as Santa Anita and Del Mar in Southern California and Keeneland and Churchill Downs in the Commonwealth of Kentucky.

Prior to moving to the Breeders' Cup in 2011, I was President and General Manager of the Del Mar Thoroughbred Club where I spent 21 years learning the game of Thoroughbred racing – a game I am immensely proud to be a part of and one I hope to leave better than I found it when I left the life of a (somewhat miserable) securities lawyer in 1990.

I want to begin my comments by emphasizing that I am not here to tear down this great sport. You will hear from others that we have made great strides in medication reform and enforcement over the last ten years and I do not debate that. I am also here to tell you that I have every confidence that the great races here in the United States including the Triple Crown and the Breeders' Cup are conducted with the highest level of integrity through out of competition testing, on site security, testing through accredited and accomplished laboratories and other precautions. The Breeders' Cup for example conducts in cooperation with regulatory authorities around the world and throughout the United States out of competition testing on approximately 85% of all starters in the Breeders' Cup. All starters are required to be on the grounds of our host racing associations at least 72 hours prior to race day and all prospective starters are under 24 hour surveillance 72 hours prior to post time. We have a team of regulatory veterinarians who observe all prospective starters in the grounds of our host race track and will not hesitate to scratch a horse deemed at risk by the veterinary team.

Our comments today, however, are not simply about the big events. They are instead about the day to day conduct of racing and the confidence of the wagering and non-wagering public in our product and about conducting the sport under common rules administered consistently and fairly for all. When racing was re-introduced in the 1930's and 1940's it was a highly local sport, governed by state regulatory authorities in those states that chose to permit pari-mutuel wagering. There was no wagering across state lines (at least not legally) and for the most part horses stayed put in the regions or states they called home with some shipment to winter tracks in Florida or California or even Bowie near

here in my home state of Maryland. While horses did travel to participate in the Triple Crown races for the most part it was a local game understandably played under local rules.

Today, by contrast wagering is primarily a simulcasting effort and since the mid-1990's an increasing share of handle (our term for wagering dollars) is placed on-line through authorized and highly regulated Advanced Deposit Wagering companies. It is now commonplace for horses to ship from state to state, from California to New York and vice versa or from overseas. This week, for example, there are US based horses running at the Royal Ascot Meeting on the grounds of Windsor Castle as guests of Her Majesty Queen Elizabeth II and last year at the Breeders' Cup in Del Mar, California there were 38 international runners from Ireland, the UK, France and South America. It is a modern sport that is global in scope that faces the challenges associated with all sports whether human or equine.

The challenges are modern and particularly in the world of medication both legal and illegal. Again, there has been progress but for the most part we remain a locally governed sport with different regulatory and enforcement capabilities. Yet we all need to be aware of the potential abuse of designer drugs, synthetic steroids and similar agents and the possibilities ahead for manipulation of the equine genome to create or alter physical traits of our competitors. These modern challenges require concentrated, efficient and sophisticated national programs for investigating regulatory matters, researching threats, testing and prosecution. An international sport deserves the most advanced form of regulatory mechanism and one based on 38 different state agencies with varying levels of funding, expertise and experience. As I have said many times, if we were starting from scratch knowing what we know now would we have created a national organization such as the one contemplated by the Horseracing Integrity Act or would we have 38 different rulemaking and enforcement bodies. I think it is obvious that we would choose the former and not the latter.

The current process for national rulemaking remains unusually cumbersome. Let me give one example and while it may sound as though I am picking on my friends in California I don't mean to. California is one of the most capably regulated states yet when it came time to adopt the Third Party Lasix Administration leg of the RMTC/RCI National Uniform Medication Program the regulation took almost four years to adopt. Unfortunately, the Breeders' Cup had to adopt house rules to effectuate this important reform when running in California. From start to finish from the time a model rule is adopted the implementation process across 38 states can take years. That is not to say that rulemaking should be fast tracked all the time nor should it be arbitrary. It should, however, allow for quicker implementation across state lines as contemplated by the HRIA.

Before I became a racing executive, I spent the first part of my career as a securities lawyer beginning my practice here in Washington D.C. Having practiced law in that arena I am a big believer in the power of consumer confidence in a product and the fact that the Securities and Exchange Commission has primary regulatory authority over the securities industry engenders consumer confidence in financial reporting, fair trading and efficient markets. While there have been failings, on the whole the public has confidence in the markets and I believe a common sense approach to regulation in our Thoroughbred business will enhance consumer confidence and bring about extraordinary gains economically as we present our great sport in the best light possible – the sort of light that deserves to be shone on such a great game.

Mark Twain once said that "it is a difference of opinion that makes horseracing". It is my sincere hope that the differences of opinion we argue about in the future are who has the best horse – not how our sport is regulated and conducted.

Thank you.

Mr. LATTA. And thank you very much for your testimony today. And that will conclude our testimony from our witnesses, and we will now move on to our questions and answers from our members to our witnesses.

And, at this time, I am going to begin with recognizing the gentleman from Illinois, the vice chair of the subcommittee, for 5 minutes of opening questions.

Mr. KINZINGER. I thank the chairman, and I thank you all for being here. And the sponsors of this legislation, thank you for your hard work and interest.

It has actually been pretty interesting; there has been a lot of input on this issue since this hearing was announced, and we appreciate that. These are very important things that we are dealing with here, and I look forward to continuing to wrestle with these issues.

Mr. Janney, some breeders use osteoporosis medication on young horses to increase bone density in those with signs of bone disease. And reports indicate that some breeders use them without good cause and in very young horses, sometimes to improve the horse's x-ray images and other test results to make the horse more marketable to buyers.

So my question is: Are racehorses regulated and monitored from birth or only once they enter racing? And, further, if they are only regulated during racing, doesn't that mean that the breeders are actually the ones being allowed to operate without an outside authority ensuring the safety of the horses?

Mr. JANNEY. I think that there is certainly an element of truth to what you are saying. I believe the answer would be that the real regulation of horses comes when they make their first appearance at the racetrack.

And you do have a lot of sales that require horses to present themselves in the very best way that the buyers may like or to work a certain distance of ground at a later date so that they are attractive to buyers. And I think that is an area that does need to be looked at. Mr. Martin has said that is important; I think it is important too. We need a level playing field.

I don't think horses should be asked to do at a young age what they may not be capable of doing. The fact of the matter is, when a horse works fast as a juvenile, it attracts buyers. And so there is this push to get a horse to work very fast at a time in their lives when it may not be appropriate. So I have no problem with addressing that issue.

Mr. KINZINGER. Thank you.

Ms. Block, my understanding is that racehorses experience exercise-induced pulmonary hemorrhaging, which, in layman's terms, mean horses can bleed from their noses into their lungs during a race. To mitigate the severity of the bleeding, LASIX is administered to horses 4 hours before the race.

I have heard from veterinarian groups that staunchly believe LASIX is necessary and its use is in the best interest of racehorses, especially for their health and welfare. So I have two questions for you on this point.

First, does scientific research support the use of LASIX to protect racehorses from EIPH? And please provide a "yes" or "no" on that.

Ms. BLOCK. I am not a veterinarian, so I would defer to my colleagues on that first point. But, please, your second point?

Mr. KINZINGER. Understanding that the Humane Society's mission is to advocate for laws and to protect animals, how can you support a bill that bans LASIX on race day, a medication we just agreed protects horses—or, from what I have heard, agreed protects horses—when the American Association of Equine Practitioners, the North American Association of Racetrack Veterinarians, and the American Veterinary Medical Association all oppose the bill before us?

Ms. BLOCK. Thank you.

First of all, we have the Humane Society Veterinary Medical Association, and we have close to 10,000 members who support this bill and recognize the problems with race-day medications in this industry. And so we absolutely feel that this is important, this legislation is key. It goes well beyond LASIX. It addresses a whole host of issues and problems.

And as for on race day, a horse out there, before the race starts, as people are assembling, with a needle to the horse's neck is probably not the best thing everyone wants to see. It is not a perception that should be projected. And these horses should be able to run clean and safe, as many human athletes do in many sports.

Mr. KINZINGER. I appreciate that. And I think, yes, nobody wants to see that, but if it is a medication that protects horses, then I think in some cases optics maybe should take a second place to actually the protection of the horses.

Mr. Foreman, the horseracing industry is a state-regulated, state-sanctioned industry. And I am a big proponent of states' rights, but I also know there can be a need for Federal uniformity at times.

My understanding is that your organization has collaborated with others to promote the adoption of national uniform medication programs to provide uniformity based on four pillars.

How long have you been trying to get this program adopted? And where are you finding resistance, and why?

Mr. FOREMAN. Thank you, Congressman. The National Uniform Medication Program, and I think the title probably is being used against the industry by those who seem to think that we don't have uniformity, is the product of many hours and years of work by the industry to determine from our existing rule book and our existing rules what can we do better to improve the regulation of the sport and the safety and welfare of the horse.

And there were initially four areas that were identified. One was that there is even a misunderstanding, I think, probably among the committee as to what substances are administered to a horse. Horses are treated on a daily basis with therapeutic medications in their best interest for injury or illness.

There are substances that don't belong in a horse on a race day under any circumstances, and the public doesn't understand the difference between the two, and that is something that the industry has wrestled with. For example—

Mr. KINZINGER. I hate to do this. I am going to have to—just because we are going over in time and we have a lot of questions. That was my fault for only asking with 20 seconds left.

Mr. FOREMAN. My fault for talking too long.

Mr. KINZINGER. No, that is OK.

Mr. FOREMAN. But there are four areas: controlled therapeutic medication, third-party administration of LASIX to get the vets out of the stalls on race day, a multiple-medication violation penalty system on top of the existing very well done disciplinary system, and the accreditation of our laboratories.

The program started in the midatlantic, which is the largest concentration of racing in the United States, on January 1, 2014. And I have included maps and information in our packet that 97 percent of racing jurisdictions have adopted the controlled therapeutic medication list. Ninety-six percent of our laboratories are accredited. There is only one lab right now that is not accredited.

Mr. KINZINGER. Sir, I am sorry, I am going to have to reclaim my time on that. I am sure somebody else may have questions on it.

Mr. LATTA. And as always, we will make sure that questions that are asked by the committee will be submitted to the witnesses and will have the normal 10 days to submit and respond to them.

Mr. KINZINGER. Thank you. And I will just ask unanimous consent, I have three things I want to enter into the record and also two letters from my constituents on both expressing opposition to this legislation.

Mr. LATTA. Without objection, so ordered.

[The information appears at the conclusion of the hearing.]

Mr. KINZINGER. Thank you. I yield back.

Mr. LATTA. At this time, the chair will recognize the gentleman from New York for 5 minutes.

Mr. TONKO. Thank you, Mr. Chairman. Thank you for the ability to jump ahead in the process here because of the conflicts we have. I, again, thank you and the ranking member for the hearing.

Let me cite Chris McCarron, our wonderful jockey in the audience, and it is good to have you here today. Thank you for what you brought to the arena, your talent, your ability, your passion for the sport. Thank you for expressing your concerns about this issue and being supportive of a concept that can bring great strength to the industry, seated next to Terry Finley, who was so active with my home state's horsemen's association. Great to have everyone here.

Mr. Fravel, in your testimony, you make it clear that horseracing is not only an interstate sport but an international one. More than 50 percent of horses cross state lanes to race, and 90 percent of the handle comes from interstate betting.

With that in mind, can you explain why it would benefit the sport if a horse running in Texas ran under the same rules as a horse running in, for example, New York?

Mr. FRAVEL. Well, I think if one of our challenges is making sure that consuming public understands our sports better, it is important that we have one set of rules. I mean, baseball teams, other than the designated hitter rule, don't play under different rules when they travel from one league to another, one city to another. And, we have had that problem in racing for many, many years. And in the old days, it was fine. Horses stayed where they were. The public wagered on site. But now, we travel around the world,

and we need a modern system to enforce our regulations and to create them.

Mr. TONKO. Thank you.

And, Mr. Janney, can you describe where the United States stands in terms of medication rules in comparison with the rest of the world? In what ways does this divergence impact the domestic industry?

Mr. JANNEY. Well, we have talked a lot about NUMP, and it really has, I think, five elements, and I think Mr. Foreman would agree with that, because the last one is out-of-competition testing. So there is some agreement among the states as to which substances are on the list, though not as complete as has been suggested.

With third-party LASIX, we are getting there slowly. There are places that don't adhere to that rule. With penalties, we are getting there to some extent, not as fast as any of us would like and maybe not in my lifetime.

Labs are interesting, because if you don't have good labs, you don't really have anything. I am a board member of the New York Racing Association. We operate Saratoga, Belmont, and Aqueduct. Currently, we have requested of the Governor of New York for money in the State budget, which I believe he is going to do, for a new lab in New York, which will be up to international standards. And that is the most important thing I will say, is the lab in New York is in no way up to international standards.

The positives called in New York are one of the lowest in the country. Does that mean that people in New York are more law-abiding? I don't know. But it is alarmingly lower than any other state, particularly for a major racing state. So the request is in. There will be study money, I think, for a new lab in New York.

And the CEO of New York Racing has spent a great deal of time going around to Hong Kong, to the French lab, to others, to the Olympic labs that USADA uses, because there isn't anything in this country that meets that standard, the most important of which is double-blind testing.

Mr. TONKO. Mr. Janney, in your opinion, does the Horseracing Integrity Act add an additional layer of bureaucracy or does it coordinate States into a single rule book with penalties?

Mr. JANNEY. Well, everybody here has said we need to have uniformity. Well, this is the quickest way. This will get there, again, in my lifetime. The compact won't. The compact was discussed 10 or 15 years ago. One state said yes—that was Kentucky—and nobody else.

You have on your record, the Stronach organization that is racing in Florida, California, and Maryland, saying they want the horseracing act. You have the New York Authority saying we want the horseracing act. So my view on a compact and other ways, whether it is NUMP, is that it is more designed to waste time. We are not going to get where we need to be, and this act does that, and that is why I am so in favor of it.

Mr. TONKO. Thank you.

Mr. Fravel, there have been concerns expressed about the intent of Horseracing Integrity Act to replace state racing commissions.

What do you envision the relationship between the state racing commissions and the new anti-doping agency as being?

Mr. FRAVEL. The Act, as currently drafted, allows the new horse-racing entity to delegate authority to states that as long as they are meeting certain standards and quality assurance. So I think that the possibility is that these two things will exist greatly in cooperation with one another, not replace, but simply streamline and make much more efficient the rulemaking and enforcement process, which is something that we all tend to agree on. So I am not sure I understand the vehemence with which some people oppose this if we all are trying to achieve the same thing.

Mr. TONKO. Thank you very much.

And, Mr. Chair, I yield back.

Mr. LATTA. Thank you very much. The gentleman yields back the balance of his time.

And at this time, the chair will recognize the gentlelady from California for 5 minutes.

Mrs. WALTERS. Thank you. Thank you, Mr. Chairman.

Mr. Foreman, in your testimony, you state that H.R. 2651 is not the best interest of the racing industry. Why do you believe that to be the case?

Mr. FOREMAN. I believe it is the case because the existing framework with which we work under works well. We are all operating under one rule book throughout the country. Our industry is regulated by state regulators. The regulation of our sport is very similar.

There is, in my view, no reason to superimpose on what is a system that is working very well, a group of people who know nothing about the business. I don't think it is realistic that the industry is going to roll over and allow others who are outside the industry to essentially make the rules for them.

In the proposal in the legislation actually is doing what we are doing now. It is just who is going to be in charge and who is going to make those decisions, and I believe that that is why states have legalized racing. And no different than any other—the lotteries, regulated by the states; sports gaming will be regulated by the states; casino gaming regulated by the states. Gambling is not for the Federal Government. Horseracing is not for the Federal Government.

If I could just make one correction to a statement that was made about our laboratory system, because I think it is important. Our labs are all internationally accredited, except for one. To say that a laboratory in New York does not meet international standards is incorrect. They all must meet accreditation under ISO 17025.

What we have done in the industry is created a code that is stricter than the WADA code, and we require our laboratories to meet that standard, in addition to international standards. And no other laboratories in the world are required to meet our standards. We are better than the other laboratories. The laboratory in New York is accredited both to international standards and to what we call the RMTC Code of Standards.

Mrs. WALTERS. Thank you.

Mr. Fravel, is LASIX used at the Breeders' Cup?

Mr. FRAVEL. We tried to eliminate the use of LASIX for the Breeders' Cup championships, and because of the provisions of the Interstate Horseracing Act we were prevented from doing so. We would certainly prefer to run our races under international rules that ban the use of LASIX. And I think if you were watching your television on NBC this week, you would see hundreds of horses at the Royal Ascot meeting without LASIX under no duress whatsoever.

Mrs. WALTERS. In your capacity as the CEO of the Breeders' Cup, have you ever proposed a ban on LASIX?

Mr. FRAVEL. Yes. We tried to implement that, and we did have 2-year-olds racing without LASIX in 1 year, but we were forced to back away from that.

Mrs. WALTERS. So how was that received by the industry?

Mr. FRAVEL. Many of our members were quite concerned that we were not able to enforce our rules and many members of the training committee were happy that we were not able to enforce those rules.

Mrs. WALTERS. Thank you.

And, Mr. Hamelback, I have several questions for you on the use of LASIX. Is the use of LASIX currently mandated?

Mr. HAMELBACK. I apologize. The use of LASIX is not mandated for any athlete.

Mrs. WALTERS. Is the use of LASIX uniform at races, meaning are all horses that race administered the medication? Are all horses that race administered the medication?

Mr. HAMELBACK. I believe the answer is all horses are not administered LASIX. If it is administered LASIX, it is publicly posted into the program and—but if a choice of an owner and their professional with the veterinary acknowledgment does not choose to utilize LASIX on their horse, they do not do so.

Mrs. WALTERS. OK. How is the veterinarian involved in the process?

Mr. HAMELBACK. In my opinion, the decision to place your horse on the LASIX list, as we would call it, in order to make the decision to utilize that therapeutic medication, it is a joint decision made by the owner, the veterinarian, and ultimately the trainer, or some may say the coach. What would happen and should happen, it should be directed under the veterinary care, making sure that the health and welfare of the individual is most taken care of.

Mrs. WALTERS. OK. So if every horse is being administered LASIX, does any horse gain a competitive advantage?

Mr. HAMELBACK. Not in my opinion. Again, it is very well said that LASIX can help in EIPH systems. So by that, if it prevents EIPH from occurring, then most certainly it is going to allow the horse to perform at its natural talent. If bleeding does occur beneath the alveoli of the lungs, then, yes, that would inhibit. So in my opinion, it would inhibit the horse from actually gaining his advantage of just natural talent.

Mrs. WALTERS. OK. Thank you. I am out of time. Thank you.

Mr. LATTI. Thank you very much. The gentlelady's time has expired.

The chair now recognizes the gentlelady from Illinois, the ranking member of the subcommittee, for 5 minutes.

Ms. SCHAKOWSKY. Thank you, Mr. Chairman.

Mr. Janney, do you believe that we would see fewer catastrophic injuries, horse deaths, injuries to jockeys, if we banned the administration of drugs during the 24-hour period before race day?

Mr. JANNEY. Well, I think it would improve the situation. Our industry has a very difficult perception problem, particularly with LASIX. Now, LASIX, in my view, probably doesn't prevent people from figuring out if there are other drugs that shouldn't be there. So that is not the issue. The issue is sticking a needle in a horse's neck 4 hours before the race. They lose more than 20 pounds in a sport which basically says weight is important.

Chris McCarron rode at—what did you ride at? Probably 112, 113 pounds and with weights. It was a very slight tolerance. So the horse loses weight.

The other thing is, we have a terrible problem with, if you look at any betting show, and if I don't run horses on LASIX if they are 2-year-olds. I do when they become 3 because I feel like I have to compete. I would prefer not to.

But I will guarantee you that when one of my horses steps on the track, that whoever is doing the analysis for the betting public will say, you ought to bet on the Janney horse because that horse is getting LASIX for the first time.

And I will follow that up by saying, the Pegasus Cup last year, Frank Stronach, who doesn't believe in LASIX, that was a \$15 million race. Bob Baffert had a horse in there called West Coast that was our champion 3-year-old last year. He was going to Dubai after that and run without LASIX. But he was offered a 5-pound weight allowance, so in other words, he would carry 5 pounds less if he didn't administer LASIX before the Pegasus. And Bob Baffert chose to administer LASIX. So I think at least Bob Baffert is saying it is a performance-enhancing drug. So that would be my answer.

Ms. SCHAKOWSKY. OK. Ms. Block, I understand that most racing countries, as you have mentioned—I didn't know that The Humane Society actually did exist in the U.K. and Australia—but also Japan banned certain drugs on race day, but the United States permits the use of race-day drugs.

So what effect does that have on the health of horses that race in the United States compared to their counterparts that race in other countries where race-day drugs are banned?

Ms. BLOCK. Thank you. Yes, Humane Society International, which is the global affiliate of HSUS, we are actually in 14 countries and incorporate in 14 countries and work in about 20 others. So the health of these animals in these other countries where there are racing traditions, they are doing just fine. There is not any indication that they are ailing or suffering because they are not using race-day medications. And so it is a standard by which we think that the U.S. should also be able to meet.

And as it has been mentioned, these horses do travel internationally. When they are over there in the other countries, they are racing just fine. So in an effort to bring the U.S. up to this global standard, I think it is necessary to pass this legislation.

Ms. SCHAKOWSKY. Thank you.

OK. Mr. Fravel and Mr. Janney, most countries with long-standing horse traditions ban LASIX on race day. Actually, Mr. Janney, I think I heard from you on LASIX on race day.

So let me ask you, for your wife, Mr. Fravel, what do they use instead of LASIX to treat or prevent bleeding?

Mr. FRAVEL. Well, most international jurisdictions do not permit any supplemental treatment for EIPH. For example, Hong Kong, probably the most successful racing in the world, the highest handle anywhere in the world, has the most rigid and well-regulated medication protocols in the world. And horses there, they manage to fill races with a population of 1,250 horses.

So I think the concern that the sky will fall if we prohibited the use of LASIX is unfounded. It happens everywhere in the world on a daily basis and the horses get around just fine, if not even better than they do here.

Ms. SCHAKOWSKY. And I also appreciate your adding that it certainly hasn't hurt the industry either, all those that are involved.

Mr. FRAVEL. Again, probably the three most successful racing jurisdictions in the world—Australia, Japan, Hong Kong—all run under regimes that do not permit any administration of race-day medication, including LASIX.

Ms. SCHAKOWSKY. Thank you. I yield back.

Mr. LATTA. Thank you. The gentlelady yields back.

The chair now recognizes the gentleman from New Jersey for 5 minutes.

Mr. LANCE. Thank you, Mr. Chairman.

And, Mr. Janney, from your testimony, I believe that you would like to see uniformity in the medication standards that are given to racehorses. Perhaps shouldn't Congress rely on the states to adopt the model rules that have already been developed?

Mr. JANNEY. I am not a young man. I know I look that way, but I am 69 years old, and it is my—

Mr. LANCE. You do indeed look young.

Mr. JANNEY [continuing]. It is my considered opinion that I would never be around to see that day. It will not happen. I have worked for the last 20 years being in rooms with other people to try to figure all this out. And the status quo for a lot of people is exactly what they want. And what I am here to do is try to provide the things that are going to be necessary for this industry so that my children can enjoy it.

Now, just before I close, I think Mr. Foreman got it backwards on the labs. He said that all but one lab is IFHA accredited. That is not right. There is only one lab in the United States that is, so it is the exact reverse of what he said, and that is the lab at Davis in California.

Mr. LANCE. I will get to you, Mr. Foreman.

How many states have adopted the model rules so far, sir?

Mr. JANNEY. Nobody has adopted all of the rules. The rules are five and—they are five elements to NUMP. When I was in school, I didn't get a lot of credit for just answering one question. So what you heard this morning is that people have somewhat agreed on what the list should include of prohibited substances. But then it falls off very rapidly, and it particularly falls off without a competition testing, which Mr. Foreman has identified as one of the most

important elements. And I can assure you that Lance Armstrong never failed a post-race test or a pre-race test. He only failed out-of-competition testing when people understood what he was taking.

And so in California, 2 days ago, or yesterday, I think, the proposal that was ratified by the Association of Racing Commissioners, which is the foundation of NUMP, their rule on out-of-competition testing came before the California Horse Racing Board. It did not do well. Their equine medical director, Rick Arthur, said a number of things. I will quote some of them and—

Mr. LANCE. Thank you, Mr. Janney. In fairness, we ought to have Mr. Foreman be able to respond.

Mr. FOREMAN. Thank you, Congressman. We have heard something today that actually is somewhat new to us, and that is IFHA laboratory accreditation. That is something that the international labs have been working to accomplish for some time because we have been so successful in this country with the creation of our RMTC code of standards.

There are no international code of standards, and the international laboratories have been trying to organize a program very similar to what we do in the United States. So I stand by my statement that all but one of our laboratories is accredited to ISO 17025, which is the international laboratory standard.

With respect to what is referred to as the NUMP program that no one has adopted, this program started in the midatlantic. The midatlantic is the largest concentration of racing on a daily basis in the United States. New Jersey is a participant.

Mr. LANCE. Indeed, yes.

Mr. FOREMAN. This program started in the midatlantic. All of the states in the midatlantic have adopted all five prongs of the Uniform Medication Program and they are in effect. And the program is now sweeping through the country, and you can see from our maps how it is being adopted throughout the—

Mr. LANCE. Thank you.

Mr. Martin, you wish to comment, I believe?

Mr. MARTIN. Thank you, Congressman. We hear a lot about uniformity. A lot has been said about a patchwork of 38 different states, each with their own rule book. Well, each state does have its own rule book, but those rule books are substantially similar and they are based upon the model rules. The State of New Jersey, the New Jersey Racing Commission, with regards to medication policy, has adopted the model rules by reference.

The constituencies that are most concerned about any minor inconsistencies from state to state are the horsemen, and the horsemen are universally opposed to a radical restructuring of the current system.

If the Congress is interested in having one set of standards, perhaps the easiest thing to do—and I can't speak for everybody else at this table—would be to adopt the ARCI model rules by reference, because it has been years and years and years of well thought out research and interaction between our veterinary community that has gone into the creation of those rules.

Mr. LANCE. Thank you. My time has expired.

Thank you, Mr. Chairman.

Mr. LATTA. Thank you very much. The gentleman's time has expired.

The chair now recognizes the gentleman from California for 5 minutes.

Mr. CÁRDENAS. Thank you very much. Thank you very much, Chairman Latta, for having this hearing, and also Ranking Member Schakowsky.

Ms. BLOCK, what kind of understanding do you have about what LASIX does to a horse's lungs? Is there any relevance or connection between LASIX and the lungs of a horse?

Ms. BLOCK. I do have some basic understanding, but as I said, I am not well versed in this area, so I would defer to my colleague on this.

Mr. CÁRDENAS. Anybody want to state for the record what the connection is between a horse's lungs and the use of LASIX?

Yes, Mr. Janney.

Mr. JANNEY. There is certainly a percentage of horses that do bleed to the extent that it harms their performance.

Mr. CÁRDENAS. Excuse me. Thank you for pointing that out. Bleed to the extent that it harms their performance.

Mr. JANNEY. Yes. There are small capillaries in their lungs, and as the air rushes in and out, there may be some degree of bleeding.

Mr. CÁRDENAS. OK.

Mr. JANNEY. We never knew about that until the flexible stethoscope was invented.

Mr. CÁRDENAS. So we know now?

Mr. JANNEY. We do know now.

Mr. CÁRDENAS. Now, when a horse is administered LASIX, is it 1 percent chance that their lungs are going to bleed at least to a small degree? A 2 percent, a 10 percent, a 90 percent chance? What are the chances that bleeding of the lungs will occur when a horse has been administered LASIX? And understand, I am talking about a horse that is going to be running, not a horse that is sitting in the stall.

Mr. JANNEY. There are plenty of horses that are administered LASIX and they do bleed. The question is whether they bleed to the extent that it inhibits their performance. There is a scale of one to five, and I think the thought is that if a horse bleeds on a one or two scale, it probably doesn't make too much difference.

Mr. CÁRDENAS. Thank you.

Mr. Chairman, are there any veterinarians on the panel?

Nobody on the panel is a veterinarian? That is unfortunate, because I think we missed an opportunity. We are talking about a drug. We are talking about horses. For example, if a jockey is practicing or is going on the track on race day, and that jockey doesn't feel good, that jockey can say, hey, I don't feel good, and maybe they can get things in order by the time the race happens or during practice or get that person some help to make sure they are OK.

But the horses, their only way of communicating that their lungs are bleeding is, it appears to me, when you see the blood coming out of their nose when you are in real practice of LASIX administered to horses.

Have any horses donated their lungs to science?

Mr. HAMELBACK. May I address—

Mr. CÁRDENAS. The reason why I ask that question is because I used to love to play football when I was a kid just way too much with or without a helmet. And look what happened to me: I am a Member of Congress. What does it take to run for office in this country these days? I would venture to say I was affected to a certain degree, but then I have the ability to make choices. I have the ability to raise my hand and say, hey, I need help or something is wrong or what have you.

And one of the things that concerns me about LASIX and horses is, I can understand that maybe 10 years ago, 20 years ago, 50 years ago, 100 years ago when people were racing horses and then all of a sudden sometime during that timeframe LASIX got involved, and people said, hey, this is something that helps or this is something that is good or this is something that maybe we should be using. But now, we have entire countries who are saying, you know what, LASIX, no, not a good idea. Now that we have science, not a good idea.

And what I would venture to believe—unfortunately on this panel we don't have one—is that on balance, veterinarians who deal with horses, veterinarians who have actually dealt with animals, horses that have been administered LASIX or they have had to come out and go look at them or what have you and then render their opinion about the health and safety of that horse, I would venture to believe that, on balance, those veterinarians are probably shaking their head going, you know what, human beings, LASIX with horses, stop it.

And the reason why I have joined this bill is because, unlike football players, horses, their voice is up to us human beings as to whether or not we are going to listen, we are going to learn, and we are just going to do the right thing. And LASIX is something that I think that us as intelligent human beings know today that LASIX is something that is probably not good for the horses.

With that, I am out of time, Mr. Chairman. I yield the balance of my time. Thank you.

Mr. LATTA. Thank you. The gentleman's time has expired.

And the chair now recognizes the gentleman from Florida for 5 minutes.

Mr. BILIRAKIS. Thank you, Mr. Chairman. I appreciate it. Thanks for holding this hearing as well.

My first question is for Mr. Hamelback. My understanding is that LASIX is administered 4 hours before the race, is that correct, and why? Can you please explain why LASIX is administered on race day as opposed to the prior day?

Mr. HAMELBACK. Yes, that is correct, Congressman, that the optimum time stated through research to be most efficacious for treating EIPH or preventing EIPH is between 3 to 4 hours. That is also the timeframe that studies done at the University of Kentucky Gluck Center prove that there is no further dilution within the blood; therefore, the masking that many people talk about is irrelevant because it is not proved to be so if it is administered at that timeframe.

Mr. BILIRAKIS. OK. Let me ask another question, and I will probably get different answers and maybe you answer this question. So whoever wants to answer this, please.

Will a bettor be more inclined to bet on a horse—because I have been away from it for a long time—if that bettor knows that this horse is given LASIX? And, I need to know that. Well, anyway, can you answer that question? What is your opinion?

Mr. HAMELBACK. I would like to address just one thing going forward.

Mr. BILIRAKIS. Yes, please.

Mr. HAMELBACK. I want to make sure that, for the record, the veterinary groups, unfortunately they were not selected here, they have publicly opposed this bill. So I would like to make sure that that is on record because we weren't allowed to address that.

If a wagering individual is aware, which, again, LASIX is transparent, it is publicly put into the program—

Mr. BILIRAKIS. Yes. In Florida, I know that that is the case. So the wager would know.

Mr. HAMELBACK. Correct.

Mr. BILIRAKIS. And it is also announced, I think, in the public address system as well—

Mr. HAMELBACK. Depending on if there is a correction.

Mr. BILIRAKIS [continuing]. The horse is on LASIX. Yes.

Mr. MARTIN. Congressman, LASIX use is almost ubiquitous. And I say to people, if every horse in that race is running on LASIX, could you tell me which one has the advantage, and they can't.

Mr. BILIRAKIS. Yes. They can't tell you.

What is the alternative? Mr. Foreman, prior to the use of LASIX, how were horses treated to address exercise-induced pulmonary hemorrhaging?

Mr. FOREMAN. Well, there were a number of therapies and a number of concoctions that were being used prior to the legalization of LASIX, and that is one of the reasons why the industry welcomed the advent of a new medication that was safe and effective and leveled the playing field.

But the single biggest concern about eliminating LASIX and what is done internationally as well as in this country, if LASIX is not permitted, you withdraw water from the horse for at least 24 hours prior to competition, and you withdraw food. That is how it is done. Don't think for a second that horses don't bleed in Europe. They may not be able to use LASIX on race day, but the most effective therapy for a horse that bleeds is to withdraw water 24 hours prior to competition.

Now is that humane? Is that in the best interest of the horse? Would you rather see horses who are raced dehydrated because they are less likely to bleed and see other concoctions? They used to use adjunct bleeder medications that we have banned, carbazochrome, Kentucky Red, other concoctions that they would give to a horse that anecdotally horsemen believed would affect whether or not the horse bleeds or not.

But to think that we would go back to a situation where we were the Wild West before LASIX was permitted and that we were allowed to starve or to withdraw water from our horses or to do other things, to me is irresponsible. And we would be shirking our responsibilities to our primary responsibility, and that is the health and welfare of the horse, if we were to withdraw a horse that the veterinary community has now elevated to a disease, the EIPH fac-

tor. We have a safe, effective medication that does not affect the performance of the horse. Why would you deprive a horse of that?

Mr. BILIRAKIS. Anyone else want to comment? That is the bottom line. We care about the horse, the health and welfare of the horse.

Mr. JANNEY. Well, I would like to, if I could. We have heard a lot about the veterinary community, and they are in a very difficult position. If you or I go to see our doctor and he looks at us and says, well, after 45 minutes, more exercise, less eating. And we leave. We expect to get a bill.

That is not the way it works at the racetrack. If a vet comes into my stable, and my trainer says, go look at the horse down in stall one. He is a little sore. Go look at the one down on three. I think there is a problem with an ankle, whatever. He doesn't get paid unless he prescribes something, some medication.

I have never paid a bill for a consultation. And so you are really conflicted because as a veterinarian, as a racetrack vet, you are not going to feed your family giving consultations. And the Thoroughbred Safety Committee, and Chris McCarron is on that committee, recommended 2 or 3 years ago, one of our principle recommendations was go to a system like a human doctor where somebody gets paid to analyze and maybe not prescribe.

LASIX is a very lucrative business. The vets basically are selling the compounds that they are putting into a horse. If your horse may have an ulcer problem and you are getting GastroGard for it, the vet has bought the GastroGard. He resells it. And that is just a fact of life at the racetrack, and it is not the way we ought to do business.

Mr. BILIRAKIS. All right. Thank you.

Mr. LATTA. I'm sorry. The gentleman's time has expired.

Mr. HAMELBACK. Sir, I have worked for veterinarians for much of my professional career, and I find it offensive that Mr. Janney addressed the veterinarians in that way.

Mr. LATTA. The chair at this time recognizes the gentleman from Texas for 5 minutes of questions.

Mr. GREEN. Thank you, Mr. Chairman. And I thank our witnesses for being here today.

Ms. BLOCK, do you know how the death rates for horses in the U.S. compare with death rates in other countries?

Ms. BLOCK. I am sorry. Could you repeat that? Could you repeat that question?

Mr. GREEN. The death rates for horses in the United States as compared to other countries.

Ms. BLOCK. I don't have the statistics on that, and I can certainly compile that for you and present it later.

Mr. GREEN. OK. If you could, get it back to us.

For the panel, all the panel, are horses in the United States more prone to bleeding during races than racehorses in other countries? And if so, why would you believe that? Why would that be happening?

Mr. HAMELBACK. Sir, there was a study done in 2009 in South Africa. Over 167 horses were tested and scoped. Over 80 percent of those bled to some degree, so that is why we believe it is necessary.

Mr. JANNEY. I will maybe add a little bit to that. A lot of the other countries have different training centers. We tend to house our horses at the racetrack. They tend to be in more urban environments. Air quality may not be as good. We have a definite predisposition for speed in a race, and those kinds of elements do affect what is going on, and it probably makes our bleeding a bigger problem than it might be in other jurisdictions.

But the fact of the matter is, even having said that, it is really 10 percent of the population that we are talking about. Ninety percent of the horses don't need LASIX, but they get it anyway, and then they get a bottle of electrolytes after they race to try and rehydrate them. So it is a problem.

Mr. GREEN. Mr. Martin, is pulmonary bleeding painful for the horses? Although none of us are horses, I guess we don't know.

Mr. MARTIN. I didn't know I looked like a horse, Congressman. I can't answer that question. The only thing I can say is what has been alluded to, is the American College of Veterinary Internal Medicine has elevated its assessment of the degree of seriousness of EIPH.

We reopened this issue in 2011 because it has always been a controversial issue within the racing industry. We brought in experts, veterinary experts, research experts, and we concluded that there was no science that would necessitate taking away this medication that is given either for reason or prophylactically to protect the health of the horse when it races.

Mr. GREEN. Mr. Fravel, you said in your testimony that the Breeders' Cup conducts out-of-competition testing on approximately 85 percent of all starters in the Breeders' Cup and put prospective starters under 24-hour surveillance 72 hours prior to the start time. Are such stringent measures common or is the Breeders' Cup more unique in this respect?

Mr. FRAVEL. I would say, other than Hong Kong and Japan, that the regimen that we have established for the Breeders' Cup is the most strict in the world, certainly the most strict in the United States.

As I said in my written testimony, the processes that are implemented on large event days, like the Triple Crown races, the Breeders' Cup, I think security testing, out-of-competition testing, is all very advanced. It is the day-to-day racing where I think the public lacks the confidence that those same kind of safeguards are in place, and the same level of expertise in the testing and enforcement is missing.

Mr. GREEN. Mr. Janney, opponents of the bill have shared concerns about the USADA's lack of expertise in veterinary science for horses specifically. Do you see that as being an obstacle to implementing H.R. 2651?

Mr. JANNEY. I don't. We humans share 98-plus percent of our DNA with horses. And most of the drugs that are coming into the horse industry that could be described as performance enhancing are coming from human medicine. There is really not a huge amount of research in new drugs that are in the equine field. It is really all coming from the human side.

And USADA has a huge amount of expertise in figuring all that out, and it has to be very intelligence-based testing. You have got

to know what you are looking for, because if the molecule has changed in any way, you are not going to find it. So really, I think they are the best people to go forward with this.

We are in a new world. I would love it to be a different world where people didn't take an edge, but they are taking an edge now in a way that is far more effective than it used to be. And that is our problem. And we have to work very closely with the other sports to figure out what is happening.

It used to be we only had to worry about what was going on in the harness industry and whether it was migrating over into the Thoroughbreds. That isn't the case anymore. It could be a Russian athlete that is taking something and it works pretty well in a horse too.

Mr. GREEN. Thank you, Mr. Chairman.

I didn't think Russians would be in horse races.

Mr. LATTA. Thank you very much. The gentleman's time has expired.

And just to let the committee know that we might have votes as early as 11:15, so I would like to make sure that all members keep their questions at 5 minutes so we can get the questions in prior to votes.

So at this time, the gentleman from West Virginia is recognized for 5 minutes.

Mr. MCKINLEY. Thank you, Mr. Chairman.

I come from northern West Virginia in Wheeling, and I grew up around Wheeling Downs, Big Bill Lias, and this issue is certainly something that we would have heard about back then about the doping of horses and all the problems we had back then. But in that area, now, Wheeling Downs then switched over to Greyhound racing, but we still have the meadows and Mountaineer Park. So it is something very much a horse industry, is very important to me and how we have done that growing up around it.

So I have got to say that in the few years, 8 years I have been here, when people come before the panel, there is sometimes a little bit of confusion of whether or not they are with us or against us on this—on any particular bill, but not on this one.

You two, Hamelback and Martin, I don't know if you didn't get the memo. Your passion came out pretty strongly about where you stand on this, so I am fascinated with that, but I want to hear the counter to it as we debate this.

So, Mr. Fravel, tell me where they are wrong. We heard the testimony. Where are they wrong?

Mr. FRAVEL. Well, the gist of a lot of this testimony is, things are going fine, we are doing well, don't mess with us, that we don't need a national program, we can do it all ourselves.

Mr. Janney mentioned yesterday an example, and I mentioned it in my testimony in California. One of the four components of the National Uniform Medication Program was third-party LASIX administration. It took 4 years to get that done in California.

A year-and-a-half ago, we all met in Arizona, and we adopted, as part of the RMTC and RCI, the out-of-competition testing rules. Yesterday, after 18 months of deliberation in California, that was referred back to committee because the rule was claimed to be unclear or failed to meet the Administrative Procedures Act.

I am concerned with this conversation focusing so much on LASIX. If we came up with a new medication tomorrow that could be administered 24 hours out and prevented EIPH, it would take 4 years under the current system to get that implemented nationally because there would be so much arguing over its effectiveness and research and everything else. The current system takes too long. It takes forever.

Mr. MCKINLEY. Let me go to Mr. Hamelback, if we could. You have been hearing the testimony now on the other side of the issue. Where are they wrong, so that you could refute or bolster your case? What should I be listening to?

Because the concern I have a little bit is the fact that internationally they can use LASIX up until the day of the race and they can't on the day of the race. So I need to be educated a little bit more about that position and also in debating what you are hearing their testimony. Where are they wrong?

Mr. HAMELBACK. First off, as the son of a Marine and United States American, I am not sure that I really worry about what they do internationally. What we do in the United States is the number one industry in the world, period.

I think the burden of proof comes to them. They need to tell us why this is necessary, because statistically it is not. Plain and simple. There is no proof of what we are doing currently needs further oversight.

Do we need more time and money to be spent on researching, as Mr. Janney said, designer drugs? Absolutely. Do I need to continue to hear LASIX equated as a drug? I do not. LASIX is a therapeutic medication, no different than Advil. I take LASIX every day for high blood pressure. It is safe. It is effective for a problem that was elevated to a disease. And I need to make sure, as the only one that raised horses up here, it is the health and welfare of the horse that we take care of first.

So, yes, I would say that my members would be the first to stand and say if there was a medication proven that would be as effective or preventing EIPH and you could administer it 36 hours out, that is what is best for the horse, that is what our mission statement says, that is what we are going to do.

Mr. MCKINLEY. Thank you. And I yield back my time.

Mr. LATTA. Thank you. The gentleman yields back.

The chair now recognizes the gentleman from Indiana for 5 minutes.

Mr. BUCSHON. Thank you, Mr. Chairman. Fascinating subject, passionate on both sides.

I was a doctor before I was in Congress, so I am not a veterinarian, but I was a people doctor. And so I am fascinated with how this is focused on LASIX. As a heart surgeon, I gave people LASIX all the time.

And so when you get down to the facts, here is what we need to know, I think, when you want to determine whether a medication is effective or not. First of all, what is the incidence of the disease you are trying to treat; whether or not the medication you are giving treats it; in what percentage of patients it is effective to treat the problem that you are proposing you are treating. And you

also want to make sure there is clinical significance in the problem that you are treating.

And I am not convinced of any of those things as it relates to LASIX in horseracing, other than the fact that horses lose a bunch of weight, which gives a racing advantage, clearly.

So I guess I would start with Mr. Fravel here. What is the information that says, number one, the instance of this problem is significant enough? You said, Mr. Janney, 90 percent of horses, no problems. So you are down to 10 percent, roughly. What is the incidence of the disease? Is the medication being used to treat that disease? What is the effectiveness of it? And is there a clinical significance in treating the disease enough to actually treat it?

Mr. FRAVEL. Let me try to give you my laymen's understanding of those questions. One, all horses bleed to some degree under intense levels of exercise. That was only discovered, as Mr. Janney said, with the introduction of the flexible endoscope.

Mr. BUCSHON. Can I interrupt you then on that? That is a good point, because that means that, was there overt clinical evidence of bleeding prior to looking down into the airway and say, hey, there is a little bit of blood there?

Mr. FRAVEL. There was only the incidence of epistaxis from the nose. And I think the incidence of that in Hong Kong, for example, is about 4 percent—

Mr. BUCSHON. OK. So very, very low incidence of actual clinical evidence.

Mr. FRAVEL. So there have been studies that were mentioned in South Africa that do indicate that LASIX does have a positive impact on horses that do bleed. So it might reduce a four to a three or a two to a one.

The other answer to some of those questions, physiologically we don't know the impact on individual horses. People say, well, it is not performance enhancing. My wife, when she has one glass of wine, is a lot different than I am when I have one glass of wine. So we don't know, actually, in individual equines how that medication affects their individual performance. Their trainers may have a better idea than I would or the wagering public would, but we don't know the answer to that.

The final part of that question is I believe there has been some research that indicates that although there is some pathological change in the lungs as a result of bleeding over time, we don't have any indication that that has reduced the life expectancy of horses, their useful life as a racehorse, nor is there any clinical indication that there is a disease that follows that pathology. So—

Mr. BUCSHON. Mr. Janney, and then I will have one of the other people that opposes the bill give their comments.

Quickly, do you have anything to add?

Mr. JANNEY. Well, I think that one of the things that you have to worry about is the perception on the industry and being out of step with the rest of the world. I disagree a bit with my colleague over here on the left. We sell our horses in international markets. There is a reason that Keeneland has written a letter supporting this bill. I think that reason is that every other national association talks about why U.S. horses are inferior. Whether that is true or not, I am not saying.

The second thing is that Mr. Gagliano, who is president of The Jockey Club, is always going to international forums. And at those forums, always the other international bodies say why should we accredit your races in the United States when you run on race-day medications?

Mr. BUCSHON. I am going to interrupt you there because I have only got a few seconds left. Thank you.

Anyone else?

Mr. Martin, quickly. Do you have any comments?

Mr. MARTIN. I think the history of LASIX is well known. I think the research that has been done subsequent to the 30 years when it was first put in place probably makes the case more to permit it. As far as international, in North America, Canada allows LASIX. There are a ton of standardbred horses that cross the border and race—

Mr. BUCSHON. I am going to interrupt you there because the chairman wants me to stay on time, and thank you all for your comments.

I yield back.

Mr. LATTA. Well, thank you very much. The gentleman yields back.

The chair now recognizes the gentleman from Oklahoma for 5 minutes.

Mr. MULLIN. Thank you, Mr. Chairman. Thank you to our panel for being here. Thank you, Andy, for leading on this.

Mr. Foreman, are states' racing commissions equipped to properly regulate the horseracing industry?

Mr. FOREMAN. They have done it for over a century and they are doing it now, so the answer is yes.

Mr. MULLIN. Would you consider horseracing, though, out of state? Would you consider it more of a national sport than just a state sport at this point?

Mr. FOREMAN. Our sport is national to the extent that we are permitted to simulcast our races throughout the country and that we have betters who are betting on races.

Mr. MULLIN. I am asking this because I know the answer to this. Do the horses travel across state lines?

Mr. FOREMAN. Particularly in the midatlantic, which is the largest concentration in the United States, they are crossing state lines every day.

Mr. MULLIN. So commerce would be traveling across state lines at that point, right?

Mr. FOREMAN. Yes.

Mr. MULLIN. OK. And I think that is kind of what we are—of course, we are talking a lot about LASIX here. I get that. But the fact is is that Congress does have a role for the commerce side of it, that is why we are Energy and Commerce, when it crosses state lines, even when it comes to sports.

I do not like regulations at all. I think we are equipped to regulate ourselves, so everybody needs to understand that. But Congress does have a role when it starts crossing states' lines. That is a role that we have to regulate.

And so when we are starting to talk about the bill and talking about moving forward, it is not about the industry. The industry

can oversee itself. Those that are participating can oversee it. So we have got 32 different jurisdictions that are working to try to uniform the standards right now inside the horseracing, I get all that. But what role does Congress have to play?

In this particular role, when we start talking about the horse-racing industry, not track to track, does Congress have a role to play in this or not?

Mr. JANNEY. Very quick answer. If you all hadn't passed the Interstate Horse Racing Act, we wouldn't be here. I wouldn't be in the business, and there really wouldn't be an industry.

Mr. MULLIN. Mr. Hamelback?

Mr. HAMELBACK. Does Congress play a role in NASCAR? They travel from state to state and compete in different—

Mr. MULLIN. We do some. We also do in NCA sports, and we do in the NFL. We do in major league baseball, in the NBA. Not in the UFC, but we will with MMA.

Mr. HAMELBACK. But ultimately, each commission of the 34 pari-mutuel governed jurisdictions, which Oklahoma, obviously you have Will Rogers Downs, Thoroughbred Racing Association of Oklahoma.

Mr. MULLIN. The Oklahoma horseracing industry is not for this, and I understand it. I am not for overregulating. I am just asking the question, does Congress have a role to play in it or not?

Mr. HAMELBACK. I do not think so. Each state is 100 percent uniform that has racing.

Mr. MULLIN. But the horses travel outside the state if it is—

Mr. HAMELBACK. You have to abide by the rules that are in that state.

Mr. MULLIN. And the horses travel from track to track, and the owners travel from track to track, right?

Mr. HAMELBACK. Right.

Mr. MULLIN. Yes. My first cousin, who is a very good friend of mine, very close, we traveled all over the place, rodeoing together, because my background is rodeoing. I think quarter horses are better than thoroughbreds, but, that is my jab there, guys, so go with me. Make light of the situation.

But he shoes horses all over the place. He travels from track to track, which makes the industry not just regulated or not just overseen by just one state. I don't like it any more than anybody else. I don't want to overregulate the industry. The industry is successful and it is working. I get that. But Congress does have a role to play here.

As much as I don't like it, that is the end of—really, that is the end or the beginning of our conversation. When it crosses a state line, that is where our role plays. That is why we have interstate commerce and intrastate commerce. That is why there are two different things.

Yes, sir.

Mr. JANNEY. The difference between NASCAR and us is we are betting. Now, sports betting is coming.

Mr. MULLIN. I am sure there is no betting on NASCAR.

Mr. JANNEY. Well, sports betting is coming, and you will have, as a committee, I am sure, a very interesting question as to what you want to do. But the fact of the matter is, the reason we are

all here is the Interstate Simulcasting Act, and people in California are betting on New York races and vice versa. And that is really the important element.

Mr. MULLIN. Mr. Foreman, go ahead.

Mr. FOREMAN. Congressman, interestingly, the Interstate Horse Racing Act does not regulate simulcasting. Simulcasting is regulated by the states.

Mr. MULLIN. I agree with that.

Mr. FOREMAN. All that the Interstate Horse Racing Act does is prevent simulcasting to states that have not legalized gambling, and lets the industry regulate but permits it in states that allow it.

Mr. MULLIN. Right. I feel we are a long way from getting this fixed, but this is a conversation that needs to be had. And I appreciate Congressman Barr for bringing this up because, as we do need to look forward, we do need to understand what role we have or haven't to play in this.

Mr. Chairman, I yield back.

Mr. LATTA. The gentleman's time has expired.

The chair now recognizes the gentleman from Pennsylvania for 5 minutes.

Mr. COSTELLO. Thank you.

Mr. Hamelback, in your testimony, you state that the U.S. Anti-Doping Agency lacks equine knowledge. How do you think that will affect or impede their ability to be effective?

Mr. HAMELBACK. Certainly, we feel like it is well known and publicized that the United States Anti-Doping Agency has experience in human testing professional human sports. It is our belief that while they do have that expertise in humans, crossing over to the equine world is not only different, it is logistically different. Nothing in this piece of legislation actually puts them doing anything different than we already have in place now.

Mr. COSTELLO. Share briefly the logistical differences.

Mr. HAMELBACK. Beg your pardon?

Mr. COSTELLO. Share briefly the logistical differences that you are referencing.

Mr. HAMELBACK. Well, for one, I would say the quantity number of tests. And one thing that we have continued to not be exposed to is the economic impact that this is going to have on our industry. To me, I see that as a very logistically difficult hurdle to get over. At this point, nothing has been done as far as an economic study to show us what this is going to cost with a new, some could say two new regulatory bureaucratic layers added onto us already.

Mr. COSTELLO. Thank you.

Mr. Fravel, I invite you to respond to anything that might have been said, as well as explain to the committee more about the potential abuse of designer drugs in horseracing.

Mr. FRAVEL. Is that question for me?

Mr. COSTELLO. Yes, sir.

Mr. FRAVEL. Well, I think all of us read in popular publications how designer drugs are introduced on a daily basis. And, the term "designer drugs" is probably overstated. There is constant research in human medicine directed at developing new medications. And,

somehow or another, those things find their way into horseracing or athletics or areas they weren't intended at all.

So, the concern here is that we don't have a concerted national effort to identify threats as they occur, whether those be genomic alterations or designer drugs or other kinds of practices that none of us are aware of. It is hard for those of us who are honest, honestly, to come up with devious things that other people come up with, but we need to find a national organization to identify those threats and deal with them.

Mr. COSTELLO. Thank you.

Mr. FOREMAN. Congressman, if I could just respond to your question about USADA?

Mr. COSTELLO. Yes, and then I have a followup.

Mr. FOREMAN. USADA does not regulate the performance horse industry that participates in the Olympics in this country. They may do to the human athletes, but they do not do the equine competitions. That is regulated by the United States Equestrian Federation, which has its own governing body, its own regulations, and its own laboratory.

So, clearly, USADA is not capable and qualified, or they would be doing the work of the Olympic Committee and the performance horse industry in this country.

Mr. COSTELLO. Thank you.

You indicated there is also total uniformity as it relates to banning performance-enhancing drugs in horseracing. If that is the case, why do proponents of this bill still wish to see it enacted?

Mr. FOREMAN. Well, as I have said in my testimony, I don't think it is about uniformity. I think it is about LASIX, and I think it is about getting the regulation of the sport into the hands of those who are not the state regulators who are permitting the practice right now. And I think that is fundamentally what is going on here, and I think you can hear it in the debate.

The industry is focused on performance-enhancing drugs. The industry is focused on every aspect of medication and drug testing. The industry created a consortium back in 2004 that would be the scientific arm of the industry, because that is what those who are proponents wanted—an independent scientific arm to advise the industry on medication matters.

And that is an organization that has done very well. It is one we rely on. And they are the scientific body of the industry that makes the recommendations to us. And, quite frankly, when it comes to the work we are doing with designer drugs or other new drugs that are entering the marketplace and into racing, we do that research and we do that work through the RMTC.

Mr. COSTELLO. Thank you.

Any quick followup from anyone on those points?

Go ahead, Mr. Martin.

Mr. MARTIN. The issue of designer drugs has come up, and the lack of some kind of organization. You are sitting next to one, and the RMTC is another one, and the Association of Racing Chemists is a third. And when we get information about the use of a particular substance, it goes into that network in various ways.

And I know the New York lab has come under some criticism here, but I used to be the racing and wagering executive director

in New York. And the first time I met Dr. Maylin, that is when I started to appreciate—he would spend all his free time on the internet, cruising the blogs of other sports to see what they were using and then trying to develop ways to detect that.

And that has not changed in all of those years. As a matter of fact, it was the New York lab that recently discovered the use of a designer drug that nobody else had the ability to test for, and then that was circulated out through the network of labs.

We may not be real good at tooting our own horn, but there is a system in place. It may not be perfect, but there is a system in place. And we work every day to strengthen it and try to make it better.

Mr. COSTELLO. Thank you. I encourage you to supplement your testimony with any additional written response.

I yield back the balance of my time.

Mr. LATTA. Thank you.

The gentleman's time has expired.

And the chair recognizes himself at this time.

Mr. Foreman, are there any concerns with having the Federal Trade Commission oversee this type of a program? I am not aware of a similar program overseen by the agency, and I would appreciate your thoughts on that.

Mr. FOREMAN. I am not aware of any other program similar either, particularly in our industry.

I think it is interesting that the involvement of the Federal Trade Commission, obviously, invokes consumer protection. And I envision—and I said it in my statement, and I wasn't engaging in a hyperbole—that if there is a move to eliminate LASIX in this country, in racing in the United States, it is going to force owners out of the business. It is going to force at horse sales that go on in many states throughout the country, auctions and sales, a disclaimer that is going to have to be put on horses that are sold that they are potential bleeders, that they may suffer this incidence of EIPH, that they will not be able to treat that horse for racing, and that horse may not be able to race.

Now, can you envision buying an automobile or a product where you are told at the time of sale that this product may have a problem, it is likely to have a problem, you are not going to be able to fix it in a way that you can use it? Are you going to buy that product? And that is why you don't see the breeders organizations throughout the country supporting this bill. Because they know what is going to happen; it is going to chill sales.

You have owners who have horses that bleed. If you take this medication away from them, they will leave the business. Where are those horses going to go? This is not Europe. We have thousands of races in this country. We have 32 states conducting racing on a daily or a seasonal basis. We have tens of thousands of people employed in this business, and it is labor-intensive. You take these animals off the racetrack; where are they going to go? And that is the welfare crisis that I am talking about.

And I am sure many of you have heard from constituents who are in this industry and what effect what you think is a simple change will have on the economics of the horseracing industry.

Mr. LATTA. Thank you.

In the balance of my time, Mr. Janney, in your testimony, you mentioned the use of a number of drugs in reference to milkshaking. Would you explain what this is and what you have seen with respect to cheaters using this type of method?

Mr. JANNEY. Well, milkshaking has probably had its heyday, but, basically, what it was doing was loading up with bicarbonate, which had an effect on slowing the deterioration of strength in the muscles because it slowed down the oxygen leaving the muscles. I am not a scientist, but that is basically what was going on, and horses were being loaded up with bicarbonate.

After quite a long time, the industry addressed it. They did address it on a state-by-state basis. It did take, as I say, a very long time, but, fundamentally, we are able to look at levels of oxygen in the blood and come to some determination.

Having lived through it in New York, where I was on the New York racing board, I can tell you that the limit was set so high that it still allowed a fair amount of milkshaking to go on. The numbers were such that you could go over that but you could also milkshake and stay under that limit. And that is kind of where we are today.

But there is no question that milkshaking can be effective and that horses end up with more stamina, to complete the race.

Mr. LATTA. Thank you.

I am going to yield the balance of my time. And I see that we have no other members wishing to ask questions. But, first of all, I want to thank our panel for being with us today. It has been a very informational and informative meeting today.

But before we conclude, I would like to ask for the following documents to be submitted for the record by unanimous consent, and we have quite a number: A letter from the American Quarter Horse Association; a letter from American Racing and Entertainment; a letter from Chris McCarron; a letter from the Equine Health and Welfare Alliance; a packet of documents from Alan Foreman; testimony from William Lear of The Jockey Club; a letter from the Stronach Group; a letter from the Ohio State Racing Commission; a letter from Barbara Banke of Stonestreet; testimony from Matt Luliano of The Jockey Club; documents and a letter from Dr. Thomas Tobin; testimony from William Thomas of Keeneland Association; a letter from the New Racing Association; a letter from the U.S. Trotting Association; a letter from West Point Thoroughbreds; a letter from the Kentucky Thoroughbred Association; a letter from the North American Association of Racetrack Veterinarians; a letter from the Thoroughbred Owners and Breeders Association; a letter from Shawn Smeallie of the Coalition for Horse Racing Integrity; a collection of documents from the Humane Society of the United States; and a letter and roster from the Water, Hay, Oats Alliance.

[The information has been retained in committee files and can be found at: <https://docs.house.gov/meetings/IF/IF17/20180622/108463/HHRG-115-IF17-20180622-SD003.pdf>.]

Mr. LATTA. And, with that, I again want to thank our witnesses for testifying today. And as I mentioned a little earlier, if there are additional questions that would be submitted the record by our members, that we would have about a 10-day period for you all to answer those letters.

So, again, I appreciate you all for being here today and for your testimony.

And, at this time, the subcommittee will stand adjourned.

[Whereupon, at 11:16 a.m., the subcommittee was adjourned.]

The Honorable Adam Kinzinger
2245 Rayburn HOB
Washington, D.C. 20515

June 16, 2018

Dear Congressman Kinzinger:

I am writing to inform you of my strong feelings against, H.R. 2651, the Horse Racing Integrity Act of 2017.

I am a thoroughbred race horse trainer who resides in your district. H.R. 2651 seeks to ban the therapeutic drug Lasix, or Furosemide. This drug is used in horses to control or prevent Exercise Induced Pulmonary Hemorrhages (EIPH), or "bleeding." Horses often experience EIPHS during intense exercise, such as during races.

Lasix is recognized as an effective, preventative treatment for "bleeding" in the lungs of horses, which is the reason its use is recognized by the North American Association of Racetrack Veterinarians and the American Association of Equine Practitioners as safe and effective. These veterinarians believe that the use of Lasix to treat "bleeders" is in the health and welfare interests of the animals.

As a constituent, I am respectfully requesting you to oppose H.R. 2651.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Reavis", with a stylized flourish at the end.

Michael Reavis
36805 Irish Lane
Custer Park, IL 60481



June 15, 2018

The Honorable Adam Kinzinger
2245 Rayburn HOB
Washington, DC 20515

Dear Congressman Kinzinger:

Illinois horsemen, the owners and trainers of race horses, proudly reside and work throughout your northern Illinois congressional district. The undersigned horsemen groups responsible for advocating on behalf of horsemen racing at Arlington Park, Fairmount Park, and Hawthorne Race Course, write today to share our grave concern with the proposed Horse Racing Integrity Act of 2017, introduced as H.R. 2651.

Behind the guise of so-called reform, this measure would upend the careful balance of industry interests provided by the Interstate Horseracing Act of 1978 and would usurp local authority to regulate the sport of racing. Moreover, it would replace the current state regulatory system with one controlled by the federal government - putting in charge of that system individuals who know little to nothing about the racing industry or the health and welfare of the horse.

Stripping the Illinois Racing Board of its regulatory authority over a state-sanctioned and state-controlled business, and then shifting that power to a private entity appointed by the federal government as H.R. 2651 proposes to do, would subvert a state-based regulatory structure that has operated in 34 state racing jurisdictions around the country. Creating another layer of bureaucracy inevitably also would prompt the imposition of new fees and taxes to cover its cost. That financial burden would be passed along to Illinois horse owners and other small business owners throughout the sport of racing.

H.R. 2651 also would lead to a ban on race-day Lasix, the *only medication* scientifically proven to effectively decrease the incidence and severity of pulmonary bleeding in racing horses. Lasix, also called Furosemide, is recognized by the North American Association of Racetrack Veterinarians and the American Association of Equine Practitioners as safe and effective. Prohibiting Lasix, absent the existence of any alternative therapeutic medication

Congressman Kinzinger
June 15, 2018
Page 2

that can significantly reduce the risk of exercise-induced pulmonary hemorrhage, absolutely will jeopardize the health and lives of horses and jockeys.

Illinois horsemen have made significant contributions to promote and sustain the success of this industry. Our members have invested an estimated \$100 million in the race horses stabled at Arlington, Fairmount and Hawthorne. Additionally, we spend more than \$40 million annually to keep those horses trained. And every four or five years, we replace and replenish retiring horses (thereby re-investing another \$100 million).

Live horse racing supports the livelihood of horsemen and thousands of other workers at the tracks and throughout Illinois agribusiness, including backstretch workers, veterinarians, breeders, feed and hay suppliers, blacksmiths, gate crew workers, track management, track secretary and horse entry clerks, security personnel, truck operators, food vendors, tellers, construction workers and others.

Any measure that will exacerbate the regulatory and cost burdens will only harm those individuals and communities that depend on the continued financial health of Illinois horse racing. Accordingly, we respectfully urge you to oppose H.R. 2651 or any similar proposal.

We would be glad to discuss our concerns with this legislation, further illuminate the benefits provided by the horse racing industry to Illinois taxpayers, or answer any questions that you may have. Please do not hesitate to contact any or all of us. Contact information is included below. Thank you for your time.

Sincerely,



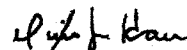
David McCaffrey,
Executive Director
Illinois Thoroughbred
Horsemen's Association

Davidmc@itharacing.com
847-577-6464



Tony Somone,
Executive Director
Illinois Harness Horsemen's
Association

tsomone@harnessillinois.com
630-323-0808



Dixie Harr,
Secretary / Treasurer,
Illinois Horsemen's
Benevolent & Protective
Association

hbpaofil@gmail.com
618-345-7724

June 16, 2018

The Honorable Adam Kinzinger
2245 Rayburn HOB
Washington, D.C. 20515

Dear Congressman Kinzinger:

As your constituents, my daughter and I are writing to inform you of our strong feelings against, H.R. 2651, the Horse Racing Integrity Act of 2017.

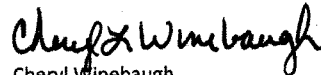
If enacted, H.R. 2651 would be significantly burdensome to the horse industry in that it would create a new, duplicative regulatory bureaucracy at the federal level, on top of an existing state regulatory structure that is operated in 34 state racing jurisdictions around the country. Moreover, it is likely that this new bureaucracy would create a new structure of fees and taxes to cover some of the federal costs of the new regulatory structure, and those fees and taxes would come from horse owners and the industry at-large.

In addition to the regulatory burdens noted above which would be created under H.R. 2651, the bill seeks to ban the drug Lasix, or Furosemide. This drug is used in horses to control or prevent Exercise Induced Pulmonary Hemorrhages (EIPH), or "bleeding." Horses often experience EIPHS during intense exercise, such as during races.

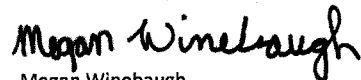
Lasix is recognized as an effective, preventative treatment for "bleeding" in the lungs of horses, which is the reason its use is recognized by the North American Association of Racetrack Veterinarians and the American Association of Equine Practitioners as safe and effective. These veterinarians believe that the use of Lasix to treat "bleeders" is in the health and welfare interests of the animals.

According to a recent American Horse Council study, the horse racing industry contributes some \$36 billion annually to the national economy and provides about 240,000 direct jobs. Any measure which will add further regulatory and cost burdens will only harm those state and local economies that depend on the industry. Accordingly, we urge you to oppose H.R. 2651 or any identical or similar companion measure.

Sincerely,



Cheryl Winebaugh
12172 W. 5000N Rd.
Wilmington, IL 60481



Megan Winebaugh
12172 W. 5000N Rd.
Wilmington, IL 60481

June 16, 2018

The Honorable Adam Kinzinger
2245 Rayburn HOB
Washington, D.C. 20515

Dear Congressman Kinzinger:

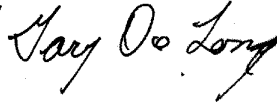
As a constituent, I am writing to inform you of my strong feelings against, H.R. 2651, the Horse Racing Integrity Act of 2017.

H.R. 2651 seeks to ban the drug Lasix, or Furosemide. This drug is used in horses to control or prevent Exercise Induced Pulmonary Hemorrhages (EIPH), or "bleeding." Horses often experience EIPHS during intense exercise, such as during races.

Lasix is recognized as an effective, preventative treatment for "bleeding" in the lungs of horses, which is the reason its use is recognized by the North American Association of Racetrack Veterinarians and the American Association of Equine Practitioners as safe and effective. These veterinarians believe that the use of Lasix to treat "bleeders" is in the health and welfare interests of the animals.

According to a recent American Horse Council study, the horse racing industry contributes some \$36 billion annually to the national economy and provides about 240,000 direct jobs. Any measure which will add further regulatory and cost burdens will only harm those state and local economies that depend on the industry. Accordingly, we urge you to oppose H.R. 2651 or any identical or similar companion measure.

Sincerely,

A handwritten signature in black ink that reads "Gary DeLong". The signature is written in a cursive, flowing style.

Gary DeLong
10266 Boone McHenry County Line Rd.
Marengo, IL 60152



600 Pennsylvania Avenue SE
Suite 450
Washington, DC 20003

September 14, 2017

The Honorable Andy Barr
United States House of Representatives
1427 Longworth House Office Building
Washington, DC 20515

The Honorable Paul Tonko
United States House of Representatives
2463 Rayburn House Office Building
Washington, DC 20515

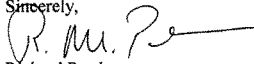
Dear Representatives Barr and Tonko,

On behalf of the American Society for the Prevention of Cruelty to Animals (ASPCA) and our over 2.5 million supporters nationwide, I write in strong support of H.R. 2651, the **Horse Racing Integrity Act of 2017**. By establishing a national, independent authority to govern medications administered to racehorses, this legislation will promote the safety of our equine athletes and encourage consistent enforcement of doping regulations across state lines.

Racehorse doping is currently monitored by state racing commissions, whose regulations and consequences for violation often conflict. The resulting patchwork of regulations creates confusing, easily circumvented standards. H.R. 2651 would create an independent, non-governmental body funded by industry to establish, test for, and enforce racehorse doping standards. This Authority would include horse industry professionals and representatives from the U.S. Anti-Doping Agency, which is responsible for governing other sports. The new standards would apply to Thoroughbreds, Quarter Horses, and Standardbreds, who collectively comprise the majority of racing starts in the U.S.

Notably, this legislation also would specifically prohibit the use of pain-relieving and performance-enhancing medications for 24 hours before a race. These medications often mask underlying health issues in horses, allowing them to over-exert and injure themselves. The U.S. has the highest rate of racehorse fatalities in the world – 1.61 per 1,000 starts for Thoroughbred racehorses alone in 2017. Prohibiting the use of these medications on race days would help to ensure that only healthy and fit racehorses could compete.

I appreciate your leadership on this important issue and look forward to working with you as this legislation moves forward. If we can assist you or your staff in any way, please let me know.

Sincerely,

Richard Patch
Vice President, Federal Affairs
Government Relations

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3841
July 13, 2018

Mr. Alan M. Foreman
Chairman and CEO
Thoroughbred Horsemen's Association, Inc.
One Corporate Center
10451 Mill Run Circle, Suite 400
Owings Mills, MD 21117

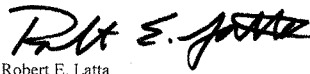
Dear Mr. Foreman:

Thank you for appearing before the Subcommittee on Digital Commerce and Consumer Protection on Friday, June 22, 2018, to testify at the hearing entitled "H.R. 2651, The Horseracing Integrity Act of 2017."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, July 27, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to ali.fulling@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,


Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

cc: Janice D. Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection

Attachment

Additional Questions for the Record

The Honorable Adam Kinzinger

1. Please provide the Subcommittee with any information you have supporting the efficacy of Lasix and its benefit to the health and welfare of the horse.
2. Please provide the Subcommittee with an explanation of the National Uniform Medication Program and provide current information regarding its implementation throughout U.S. racing jurisdictions.
3. There has been information provided to the Subcommittee about the recent move in the thoroughbred industry to establish an Interstate Anti-Doping and Drug Testing Standards Compact. Please explain this effort.
4. Mr. Janney testified that Lasix is a very lucrative business for the veterinarians and that they are motivated to administer drugs to horses to earn their living. Please provide your comments on that statement and whether it is accurate as it relates to the national rule on Lasix administration.

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641
July 13, 2018

Mr. Stuart S. Janney III
Chairman
The Jockey Club
821 Corporate Drive
Lexington, KY 40503

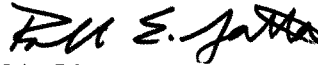
Dear Mr. Janney:

Thank you for appearing before the Subcommittee on Digital Commerce and Consumer Protection on Friday, June 22, 2018, to testify at the hearing entitled "H.R. 2651, The Horseracing Integrity Act of 2017."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, July 27, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to ali.fulling@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

cc: Janice D. Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection

Attachment

Additional Questions for the RecordThe Honorable Adam Kinzinger

1. It would appear from your testimony that the racing industry is quite well-regulated by the States that permit wagering on horse races but that the breeding segment of the industry is not regulated, except for self-regulation by the sales companies. This would seem to suggest that there are integrity, health and welfare, and consumer protection concerns relative to the breeding segment of the racing industry. Is the breeding segment of the racing industry regulated? If not, do you believe it should be regulated? If you do not believe it should be regulated, please explain. If you believe it should be regulated, who is best positioned to do it—Congress or the States as an expansion of their current jurisdiction over horse racing?
2. Of the “major racing organizations” listed as members of the Coalition for Horse Racing Integrity, which organizations are not involved in the breeding segment of the racing industry?
3. Of the “major racing organizations” listed as members of the Coalition for Horse Racing Integrity, which organizations are not involved in the international thoroughbred sales markets?
4. Except for the Kentucky Thoroughbred Owners and Breeders Association, please identify any other State breeders organization—thoroughbred, standardbred and quarter horse—that has endorsed H.R. 2651.
5. The testimony in support of H.R. 2651 made numerous references to the ability of American breeders to improve their opportunity to sell their horses in the international sales markets if Lasix is eliminated. Does this not support the argument that, in fact, it is the American breeder who sells in the international market who stands to benefit economically from H.R. 2651 to the detriment of the health and welfare of the horse and the racing industry in this country in general? Can that breeder not elect voluntarily to withhold Lasix from his or her horses under the American regulatory system?

The Honorable Gus Bilirakis

1. Mr. Janney, from what we heard from Mr. Foreman, the use of Lasix is banned on the international stage. To follow-up on that response, what were the reasons why the prohibition was made internationally?
 - a. Why do you believe USADA’s policies would be more effective than policies on drug testing and penalties determined by the ARCI?
2. Mr. Janney, does USADA have the experience required to set rules evaluating the science involved in horseracing?

The Honorable Paul Tonko

1. How is the current state-based regulatory system in horseracing broken and why is a national framework needed to ensure uniformity and integrity?
2. At the hearing, witnesses who were opposed to H.R. 2651 claimed that that substantial uniformity has largely been achieved among racing jurisdictions through voluntary implementation of the national uniform medication program. Please explain why this is or isn't the case, with specific examples.
3. All three witnesses who oppose the Horseracing Integrity Act expressly cited USADA's lack of specific equine anti-doping experience to discredit their ability to manage the new entity. Why do you believe USADA has the capability to manage a nationwide horse anti-doping and medicine control authority?
4. Opponents of the bill's ban on race day medication say the continued, pervasive use of the powerful diuretic drug Lasix in horses on the day they race is in the best interests of racing and equine welfare, despite the fact that every other major racing jurisdiction worldwide bans the use of this medication on race day. Why do you disagree?
5. The National Association of Racetrack Veterinarians and the American Association of Equine Practitioners have come out in opposition to H.R. 2651. Why do these organizations have an interest in preserving the status quo in horseracing?

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641
July 13, 2018

Mr. Eric Hamelback
CEO
The National HBPA, Inc.
3380 Paris Pike
Lexington, KY 40511

Dear Mr. Hamelback:

Thank you for appearing before the Subcommittee on Digital Commerce and Consumer Protection on Friday, June 22, 2018, to testify at the hearing entitled "H.R. 2651, The Horseracing Integrity Act of 2017."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, July 27, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to ali.fulling@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

cc: Janice D. Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection

Attachment


The National HBP, Inc.

NATIONAL HEADQUARTERS
www.hbpa.org

3380 Paris Pike • Lexington, KY 40503
(859) 259-0451 – Telephone (859) 259-0452 – Facsimile
Email: racing@hbpa.org

President & Chairman
Leroy Gessmann – IA

Chief Executive Officer
Eric J. Hamelback

Regional Vice Presidents
J. Lloyd Yother – AZ
Joe Davis – IN
Rick Hiles – KY
Stephen Screnci – FL

Secretary/Treasurer
Lynne Schuller – NE

General Counsel
Peter Ecabert

Veterinary Advisor
Dr. Thomas Tobin

July 26, 2018

The Honorable Gus Bilirakis
2112 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Bilirakis:

Thank you for the opportunity to present testimony before the House Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection on Friday, June 22, 2018. It was an honor and privilege to participate, and I appreciate the opportunity to provide feedback to your follow-up question.

Question for the Record

Mr. Hamelback, what do you believe to be the right body to oversee the use of Lasix in general?

Answer: The current bodies that oversee Lasix are the State Racing Commissions, which operate under the advisory of equine veterinarians and the Associations of Racing Commissioners International (ARCI) Model Rules. I strongly believe the system in-place should remain the body which oversees the administration of Lasix.

Horse Racing has the most comprehensive testing program of any sport in the world and employs the most sophisticated and sensitive equipment found anywhere. In 2017 the industry spent close to \$23 million on race day testing of horses in the United States. According to data from state racing commission records, also compiled in 2017 by the Association of Racing Commissioners International ("ARCI"), 99.5% of over 354,000 tests on biological samples taken from thoroughbred race horses were negative for drug use. That rate of "clean tests," shows no evidence of rampant unregulated drug use and furthermore, attests to the effectiveness of the current system.

Currently, all 34 active pari-mutuel jurisdictions in the racing industry operate under the guidance of Version 8.3 of the ARCI Model Rules, which are composed from veterinary research, peer reviewed studies and stakeholder participation.

While understanding the administration and treatment of Lasix is still voluntary for an owner to accept as a recommendation from a veterinarian and professional trainer, I feel it is important to also explain why the current regulatory structures we have in-place safeguard the horse's best interest, as well as that of the betting public.

The National Horsemen's Benevolent and Protective Association is the largest racing horsemen's representative association in North America, with 30 affiliate member organizations representing approximately 30,000 owners and trainers of thoroughbred racehorses.

As we find in Chapter 11 of the current ARCI Model Rules 8.3, ARCI 011- 020, Medications and Prohibited Substances F and G, the regulations of Furosemide (Lasix), are briefly summarized below:

Furosemide shall be permitted only after the official veterinarian has placed the horse on the Furosemide (Bleeders) List. In order for a horse to be placed on the Furosemide List the following process must be followed.

- *The horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interest.*
- *The official regulatory veterinarian or his/her designee shall be notified using the prescribed form.*
- *The form must be received by the official regulatory veterinarian to ensure public notification.*
- *A licensed veterinarian must submit a written request to remove a horse from the Bleeders list.*
- *Furosemide shall only be administered on association grounds; these are the grounds where the race will take place.*
- *Furosemide shall be the only authorized bleeder medication.*
- *Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods:*
 - (a) First incident – 14 days;*
 - (b) Second incident within 365 day period – 30 days;*
 - (c) Third incident within 365 day period –180 days;*
 - (d) Fourth incident within 365-day period – barred for racing lifetime.*

As you can see from these regulatory steps, the administration of Lasix is highly scrutinized and is conducted with observance of equine health and welfare.

I believe the regulations above, which govern the administration of Lasix, are, and have been, proven to be in the best interests of the equine athlete, and should remain with the State Racing Commissions, under the guidance of regulatory veterinarians and the Associations of Racing Commissioners International (ARCI). The system is not broken and has worked well.

Thank you again allowing me the opportunity to deliver testimony and answer your additional question.

Sincerely,



Eric J. Hamelback, CEO
National H.B.P.A.

The National Horsemen's Benevolent and Protective Association is the largest racing horsemen's representative association in North America, with 30 affiliate member organizations representing approximately 30,000 owners and trainers of thoroughbred racehorses.

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641
July 13, 2018

Mr. Ed Martin
President
Association of Racing Commissioners International
1510 Newtown Pike, Suite 210
Lexington, Kentucky 40511

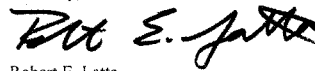
Dear Mr. Martin:

Thank you for appearing before the Subcommittee on Digital Commerce and Consumer Protection on Friday, June 22, 2018, to testify at the hearing entitled "H.R. 2651, The Horseracing Integrity Act of 2017."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, July 27, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to ali.fulling@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

cc: Janice D. Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection

Attachment



Association of Racing Commissioners International
1510 Newtown Pike, Lexington, Kentucky 40511

July 22, 2018

Rep. Robert E. Latta, Chair
Subcommittee on Digital Commerce and Consumer Protection
Committee on Energy and Commerce
House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Latta:

This submission is in response to the written questions forwarded me from members of the Subcommittee following the June 22, 2018 hearing on H.R. 2651. Thank you again for the opportunity to appear before the subcommittee.

Questions from Rep. Kinzinger:

Please provide the Subcommittee with any information you have supporting the efficacy of Lasix and its benefit to the health and welfare of the horse.

Answer:

The current policy permitting race day furosemide treatments for horses is a thirty-year equine welfare program that has, in recent years, become a source of great debate within the thoroughbred racing community. It has not been a matter for debate in quarter horse or Standardbred racing as there is universal recognition of its positive and protective benefits for the health of a racing horse.

In 2011, the ARCI re-visited the policy and concluded after an exhaustive review and public hearing in Saratoga Springs, New York, that there was no legitimate reason to reverse this policy. To date, an administration of a controlled dose of furosemide four hours prior to a race is permitted. Its use is voluntary and not required, and it is often given prophylactically to safeguard the health of the horse during a vigorous athletic competition capable of triggering an onset of EIPH.

Perhaps the greatest evidence of the potential seriousness of exercise induced pulmonary hemorrhage in a horse as well as the efficacy of Lasix (furosemide) and its benefit to the health and welfare of the horse comes from a recent comprehensive review of all the peer-reviewed published studies on this issue performed by the American College of Veterinary Internal Medicine (ACVIM).

The American College of Veterinary Internal Medicine (ACVIM) is a nonprofit organization dedicated to improving the lives of animals and people through education, training and certification of specialists in veterinary internal medicine, discovery and dissemination of new medical knowledge, and increasing public awareness of advances in veterinary medical care. ACVIM is the international certifying organization for veterinary specialists in a number of disciplines, including large animal (equine) internal medicine.

The purpose of the ACVIM review was to evaluate the evidence found in various studies and assess the quality of that evidence in order to make a global assessment and informed recommendation,

The ACVIM issued a "consensus paper" in 2015 addressing the health impact of EIPH on a horse as well as the effect of a furosemide administration. The "Consensus Paper" found the following:

- There was moderate to high quality evidence that EIPH is progressive, is associated with lung lesions;
- That EIPH negatively affects racing performance;
- Severe EIPH shortens the racing career of those horses so afflicted;
- EIPH should be considered a disease, an increase in the degree of seriousness;
- EIPH is bleeding that occurs from the lungs of horses during exercise and occurs in the majority of Thoroughbred and Standardbred racehorses as well as other horses subjected to strenuous exercise;

There has been much discussion about furosemide being a performance enhancement. On the contrary, the ACVIM found:

- The strongest evidence showed that horses that were EIPH negative or had EIPH grade 1 were more likely to win or finish in the first 3 positions;
- Moderate to severe EIPH in Thoroughbred racehorses is associated with increased likelihood of inferior finishing position in a race.

Some argue that EIPH can be treated during training and is treatments are not necessary on race day. The ACVIM review did not support this. In examining whether furosemide was an effective prophylaxis for EIPH, the ACVIM found:

- There are no reports of efficacy of interventions applied during training to prevent EIPH during racing;
- There was a decrease in severity of EIPH identified in 2 high quality investigations that endoscopically graded bleeding in large numbers of horses running on the racetrack

Perhaps most importantly was the consensus finding that affirmed the current ARCI Model Rule which is universally adopted for horseracing in the United States. The ACVIM found:

- There is high quality evidence that furosemide (0.5–1 mg/kg administered IV 4 hours before strenuous exercise decreases the severity and incidence of EIPH.

The ACVIM is an independent third party and racing regulators view this consensus paper as an affirmation of the results of the review the ARCI performed in 2011. As such, the ARCI has taken no further steps to examine this matter, although some industry organizations unhappy with this independent conclusion have sought federal and political intervention to remove the authority of the state regulators to make such determinations.

A copy of the "Consensus Paper" is attached.

Please provide the Subcommittee with an explanation of the National Uniform Medication Program and provide current information regarding its implementation throughout U.S. racing jurisdictions.

Answer:

The National Uniform Medication Program – NUMP – reflects four ARCI Model Rules that have been lumped together for public relations purposes and branded with the acronym "NUMP".

The ARCI model rules most referenced as comprising the NUMP are as follows:

- 1) reliance on the ARCI Controlled Therapeutic Schedule recommending testing thresholds for thirty therapeutic medications commonly used in equine care in order to eliminate inadvertent violations incurred by veterinarians or trainers operating in multiple states;
- 2) use of an internationally accredited drug testing laboratory consistent with the standards set by the Racing Medication and Testing Consortium, the bulk of which parallel ISO-17025 international standards;
- 3) elimination of the unsupervised administration of race day furosemide by practicing veterinarians by relying instead on independent track or commission veterinarians to perform such administrations;
- 4) the reliance upon the ARCI "Point System" to ensure that progressive penalties are imposed on those who repeatedly violate the medication rules.

Some organizations only consider the verbatim adoption of the Model Rules as indicative of adherence to the four tenants of the NUMP. As such, those jurisdictions that have implemented the policies without a formal rulemaking or those who achieve a similar result with an equally effective alternate approach are not recognized as being "compliant" with the NUMP by some of these organizations.

The ARCI supports adoption of the Model Rules that are included in the NUMP. We do not, however, believe that failure to adopt all of the NUMP rules is indicative of an inferior effort to safeguard against cheaters. We also view our Model Rules as "best practices" and acknowledge that there may be other avenues to achieve the desired result.

We take serious issue with those who claim that failure to adopt tenants of the NUMP has caused the racing industry to be drug and dope ridden. The existing drug testing program in horse racing is very aggressive and the standards are more stringent than those in human sport. It is important to understand that adoption of all tenants of the NUMP will do little to nothing to address those the real issues surrounding those who would dope a horse. The substances contained on the Controlled Therapeutic Schedule do not reflect drugs that, if found, would be considered doping. Most of these medications have been classified in the lowest categories as to their ability to affect performance. One exception is Lidocaine, a Class 2 substance with an increased ability to affect performance. When this drug is found, harsher penalties would and do apply.

In the interest of addressing calls for uniformity, most state racing commissions have completely adopted the Controlled Therapeutic Substance Schedule as policy. There are a few states that have adopted the schedule with limited exceptions: Nebraska, Maine, Oklahoma, Oregon. Some states have adopted it completely for thoroughbred racing and partially for standardbred racing – New York and Delaware. One state, Colorado, has completely adopted the schedule in practice, but not rule. Florida state statute requires the regulator to implement the ARCI policy and New Jersey has adopted the Model Medication rules by reference.

The ARCI conclusion as to adherence to this particular provision of the NUMP is that there is substantial compliance with these uniform thresholds with the most significant exceptions affecting some standardbred jurisdictions and Ohio. It is important to note, the adherence to this schedule in no way reflects on the anti-doping programs of any one state as the substances contained on this schedule are considered therapeutic medications.

With regard to the accreditation of the testing labs: with the exception of Louisiana and the former Iowa lab, all states utilize labs that are internationally accredited to the ISO 17025 standard. Of those states, only South Dakota and the Delaware Standardbred Commission utilized a lab that had not been accredited by the Racing Medication and Testing Consortium's accreditation program, although their labs are accredited to the International Standards Organization (ISO) 17025 standard.

"Third party" Lasix administration was designed to keep the practicing vets out of the stalls of racehorses on race day. Some jurisdictions or their tracks provide independent third party administrations, consistent with the Model Rule. In other states the administrations are done under the supervision of the commission or track personnel. The ARCI considers those jurisdictions to be compliant with the intent of the model rule.

All jurisdictions, except the following, are compliant with the intent of this Model Rule: Arizona, Illinois, Louisiana, Nebraska, New Mexico, Ohio, Oklahoma, Oregon, Texas, and Washington.

On the use of progressive penalties and reliance on the ARCI Multi-Medication Violation Point system, all regulatory jurisdictions utilize the MMV system which tracks "points" for medication or drug related violations. While not all states have formally adopted the Model Rule language, the

ARCI MMV tracking data is accessed by all jurisdictions, based upon access records of the database. It has been the long standing practice of racing regulatory agencies to consider multiple violations as an aggravating factor warranting a progressive penalty.

There has been information provided to the Subcommittee about the recent move in the thoroughbred industry to establish an Interstate Anti-Doping and Drug Testing Standards Compact. Please explain this effort.

ANSWER:

The Thoroughbred Horseman's Association has endorsed the creation of an interstate compact to provide for the concurrent enactment of uniform medication/anti-doping rules based upon the existing RMTC and ARCI Model Rules process. The ARCI endorses this initiative.

Delaware and Maryland have enacted Compact legislation in 2018. Indiana, Virginia, and Colorado already have statutory authority to join a racing related interstate compact. A number of other states have indicated a desire to move forward with Compact legislation in 2019. We anticipate that the Compact will become a reality and begin operating during the next six months.

The intent of the supporters of the compact is to create a coordinated rule promulgation process that will adopt the ARCI Model Rules. This is a cleaner, less controversial, and more effective way to address any concerns about the creation/adoption of uniform rules. RCI maintains that there is already substantial uniformity in anti-doping and medication policies, although we acknowledge that the few and minor inconsistencies could be eliminated through participation in an interstate compact, which is why we are supportive of this initiative.

We noted that the racing industry has successfully created an interstate compact in the past to address multijurisdictional licensing of participants. We believe if the industry were to unite behind such an effort and commit an equivalent level of resources now being channeled to support or oppose H.R.2651, the Compact could become ubiquitous.

Mr. Janney testified that Lasix is a very lucrative business for the veterinarians and that they are motivated to administer drugs to horses to earn their living. Please provide your comments on that statement and whether it is accurate as it relates to the national rule on Lasix administration.

Answer:

Mr. Janney's comments are not applicable in the majority of racing states that have eliminated Lasix administrations by attending veterinarians, opting for regulatory or track administrations. Mr. Janney's statement does not recognize that the American Association of Equine Practitioners

is a strong supporter of the ARCI Model Rule requiring third party Lasix administrations, effectively undermining his assertion.

Support for the current Lasix policy is based on a desire to protect the health of the horse. To claim that veterinarians who administer Lasix do so only for money is an unsubstantiated slight on the hard working men and women who are veterinarians and dedicate their life to the care and proper treatment of animals.

Mr. Janney may indirectly have a point in terms of the business model of many veterinarians who do not charge for their time examining horses but for the treatments they provide. As the veterinarians ultimately work for the owners, the owners determine how they will compensate their veterinarians. Some place people on retainers and some negotiate a per visit arrangement. Others pay if a treatment is required. Sometimes it is not.

I do not believe H.R.2651 addresses this issue, so I am unsure why Mr. Janney raises it.

This has been a matter between veterinarians and their clients. The State regulatory agencies have not sought to get in the middle of this and there are obvious issues regarding the extent of jurisdictional authority as well as encroachment on the rules and authority of the State Veterinary Boards. If this is a concern, there is nothing stopping the Jockey Club or its coalition partners from insisting that their members refuse to contract with veterinarians using the business model Mr. Janney believes inappropriate. To date, I do not believe any industry organizations representing owners has called upon its members to modify how they compensate veterinarians for the care given their horses.

Of the organizations listed in opposition to H.R. 2651, which ones are not involved in the regulatory Model Rules process?

Answer:

All of the organizations listed in opposition have been long time participants in the ARCI Model Rules process. They understand the process, how it works, and how it benefits the entire racing industry. These include, but are not limited to: the American Association of Equine Practitioners; North American Association of Racetrack Veterinarians; National Horseman's Protective and Benevolent Association; Harness Horsemen International; American Quarter Horse Association and the United States Trotting Association.

Of the organizations listed in support of H.R. 2651, which organizations are involved in the regulatory Model Rules process and which ones are not?

Answer:

The organizations that support H.R.2651 that are involved with the ARCI Model Rules process are as follows: The Jockey Club – long time participant; Thoroughbred Owners and Breeders

Association – occasional participant; The Stronach Group – consistent participant. Keeneland Associates – occasional participant.

The following organizations listed as supporters of H.R.2651 have had no involvement with the ARCI Model Rules process for the past fifteen years:

Coalition for Horse Racing Integrity (never);
 Humane Society of the US;
 Breeders Cup (never);
 Consignors and Commercial Breeders Association (never);
 Humane Society Veterinary Medical Association (never);
 International Federation of Horseracing Authorities (never);
 Meadowlands Racetrack, Tioga Downs, Vernon Downs (never);
 Water, Hay, Oats Alliance (never);
 American Society for the Prevention of Cruelty to Animals (never);
 Kentucky Thoroughbred Association/Kentucky Owners and Breeders (very rare);
 New York Racing Association (never).

The ARCI Model Rules process is open to all. We believe that there is a tremendous lack of knowledge about the regulatory programs that are in place as well as the thought, research, and deliberations that occur prior to their adoption.

The lack of familiarity with this subject area was most shockingly displayed by those asking for federal intervention because the industry cannot regulate itself.

One of the most fundamental truths is that the racing industry is not self-regulated. State racing regulators are independent regulatory agencies operating under strict transparency, ethics, and accountability statutes. I fear that the comments of some at the hearing believe this is not the case. That would be an unfortunate departure from the truth.

I hope these responses address your concerns. I am available to you or any Member of the Subcommittee to discuss any of these matters to assist in your understanding of the existing regulatory structure, policies and the reasons behind them.

Sincerely,

Edward J. Martin
 President/CEO.

EM.
 ATTACHMENT.

GREG WALDEN, OREGON
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115
Majority (202) 225-2927
Minority (202) 225-3641
July 13, 2018

Mr. Craig Fravel
President and CEO
Breeders' Cup
215 W. Main Street, Suite 250
Lexington, KY 40507

Dear Mr. Fravel:

Thank you for appearing before the Subcommittee on Digital Commerce and Consumer Protection on Friday, June 22, 2018, to testify at the hearing entitled "H.R. 2651, The Horseracing Integrity Act of 2017."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions by the close of business on Friday, July 27, 2018. Your responses should be mailed to Ali Fulling, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to ali.fulling@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



Robert E. Latta
Chairman
Subcommittee on Digital Commerce
and Consumer Protection

cc: Janice D. Schakowsky, Ranking Member, Subcommittee on Digital Commerce and Consumer Protection

Attachment

Additional Questions for the Record

The Honorable Adam Kinzinger

1. It would appear from your testimony that the racing industry is quite well-regulated by the States that permit wagering on horse races but that the breeding segment of the industry is not regulated, except for self-regulation by the sales companies. This would seem to suggest that there are integrity, health and welfare, and consumer protection concerns relative to the breeding segment of the racing industry. Is the breeding segment of the racing industry regulated? If not, do you believe it should be regulated? If you do not believe it should be regulated, please explain. If you believe it should be regulated, who is best positioned to do it—Congress or the States as an expansion of their current jurisdiction over horse racing?
2. Of the “major racing organizations” listed as members of the Coalition for Horse Racing Integrity, which organizations are not involved in the breeding segment of the racing industry?
3. Of the “major racing organizations” listed as members of the Coalition for Horse Racing Integrity, which organizations are not involved in the international thoroughbred sales markets?
4. Except for the Kentucky Thoroughbred Owners and Breeders Association, please identify any other State breeders organization—thoroughbred, standardbred and quarter horse—that has endorsed H.R. 2651.
5. The testimony in support of H.R. 2651 made numerous references to the ability of American breeders to improve their opportunity to sell their horses in the international sales markets if Lasix is eliminated. Does this not support the argument that, in fact, it is the American breeder who sells in the international market who stands to benefit economically from H.R. 2651 to the detriment of the health and welfare of the horse and the racing industry in this country in general? Can that breeder not elect voluntarily to withhold Lasix from his or her horses under the American regulatory system?

The Honorable Paul Tonko

1. How is the current state-based regulatory system in horseracing broken and why is a national framework needed to ensure uniformity and integrity?
2. At the hearing, witnesses who were opposed to H.R. 2651 claimed that that substantial uniformity has largely been achieved among racing jurisdictions through voluntary implementation of the national uniform medication program. Please explain why this is or isn't the case, with specific examples.
3. All three witnesses who oppose the Horseracing Integrity Act expressly cited USADA's lack of specific equine anti-doping experience to discredit their ability to manage the new

entity. Why do you believe USADA has the capability to manage a nationwide horse anti-doping and medicine control authority?

4. Opponents of the bill's ban on race day medication say the continued, pervasive use of the powerful diuretic drug Lasix in horses on the day they race is in the best interests of racing and equine welfare, despite the fact that every other major racing jurisdiction worldwide bans the use of this medication on race day. Why do you disagree?
5. The National Association of Racetrack Veterinarians and the American Association of Equine Practitioners have come out in opposition to H.R. 2651. Why do these organizations have an interest in preserving the status quo in horseracing?

